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**Legislative Assembly
of Ontario**

Second Session, 37th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 37^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 16 May 2001

**Journal
des débats
(Hansard)**

Mercredi 16 mai 2001

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**



Chair: Frances Lankin
Clerk: Douglas Arnott

Présidente : Frances Lankin
Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 16 May 2001

Mercredi 16 mai 2001

The committee met at 1003 in committee room 1.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Ms Frances Lankin): I'd like to call the meeting to order. If committee members could take their seats, please, we'd like to begin. We have a little bit of housekeeping business to take care of before we deal with the bills that are before us today. Mr McMeekin, I understand you have a motion to put forward.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): I am delighted to move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee be necessary to constitute a meeting; and

That the subcommittee be composed of the following members: Ms Lankin, Mr Mazzilli, Mr Hoy and Mr Bisson; and

That substitution be permitted on the subcommittee.

As I understand, that's normally the procedure.

The Chair: I'm just reading that motion along with you and it indicates that, as Chair of the committee, I would chair the subcommittee. That's understood, but just so the motion before members of the committee is clear.

Are there any questions or debate on the motion? Seeing none, all those in favour, please indicate. Those opposed? Motion carried.

PREMIUM AUTO COLLISION
INC. ACT, 2001

Consideration of Bill Pr7, An Act to revive Premium Auto Collision Inc.

The Chair: The first matter before the committee today is Bill Pr7, An Act to revive Premium Auto Collision Inc. The sponsor is MPP John Hastings, the applicant is Munir Daya, and Miss Shamim Hansraj is the counsel. Could we ask you to come forward? Mr Hastings, as sponsor of this bill, would you like to make some introductory comments?

Mr John Hastings (Etobicoke North): I'll be very brief. Premium Auto Collision ran into a little bit of a problem with its accountant or whoever and the incorpor-

ation papers were not renewed. So the purpose of this bill is to renew the incorporation papers of Premium Auto Collision. There is a letter you should have from the companies branch that was circulated to a number of ministries. There didn't seem to be any problem in starting to revive this particular company.

The Chair: Members have the correspondence that Mr Hastings is referring to. Do the applicants have any comments they would like to make to the committee with respect to this bill?

Mr Munir Daya: None, other than what is presented here.

The Chair: What's been presented in writing? OK. Are there any comments from the government?

Mr Morley Kells (Etobicoke-Lakeshore): We have no objections whatsoever.

The Chair: Committee members, any questions and/or comments or debate? No. It's fairly straightforward. Everyone is comfortable to proceed to vote at this point in time? OK.

Shall section 1 carry? Carried.

Given that there have been no amendments, let me take this straight through.

Shall sections 2 and 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? The bill is carried.

Shall I report the bill to the House? It shall be done.

Thank you very much for attending here. I know that seems very routine but it's a necessary part of the procedure.

TOWN OF NEWMARKET ACT, 2001

Consideration of Bill Pr9, An Act respecting the Town of Newmarket.

The Chair: The next item before the committee is Bill Pr9, An Act respecting the Town of Newmarket. The sponsor is MPP Julia Munro.

Interjections.

The Chair: Could I ask the committee members for order, please? Thank you very much.

The applicant is the town of Newmarket. John Rogers is the assistant solicitor, town of Newmarket. Mrs Munro, would you like to make some opening comments?

Mrs Julia Munro (York North): Yes, thank you. I'm pleased to be here today to act as the sponsor. I would just give the committee a very brief overview in that this is a bill that is consistent with others of this type. It looks at special legislation in the area of historic buildings for the town of Newmarket.

The Chair: Counsel, would you like to make some comments and perhaps tell the committee what the bill seeks to achieve?

Mr John Rogers: The town of Newmarket is very proud of its heritage. This bill that is before the committee today deals with the Heritage Act provisions that allow demolition of historically designated buildings.

What we're doing through this private legislation is asking for some extra time. If an application is made to demolish a historic building—and that is certainly permitted—there is a 180-day waiting period that is normal. This bill will actually ask that the 180-day period be in place, plus the applicant would have to have a building permit for a new building that would be constructed within two years of the demolition permit being issued as a requirement before the demolition permit could be issued.

It's a type of provision that allows the LACACs of the municipality to investigate the building, to make attempts to possibly acquire the building if the funding or resources are available, or at least to inventory the building in the appropriate time frame. So it's an extension of time that's already under the Heritage Act, but it does require a permit for a new building to be issued before the demolition can take place.

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The Chair: Are there any interested parties who have attended for this matter today?

Mr Rogers: Susan Surtees from the local architectural conservation committee is here, only as an interested member of that committee. There have been no responses to our advertising, certainly to the town, with respect to any interest in this bill.

The Chair: Mr Kells, does the government have any response to this bill?

Mr Kells: We have a few comments to make but nothing of a serious nature. The Ministry of Citizenship, Culture and Recreation indicated during hearings on previous bills that its amendments to the Ontario Heritage Act were pending and that it anticipated the new legislation will afford greater protection to heritage resources than either the current act or private community-specific legislation such as this one. Having said that, they have no objections. We have no objections from any other ministry, and our ministry has no objections.

The Chair: Committee members, any questions?

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): I'm just curious. Let's assume there's a historic building or a building that's been there more than 100 years; nobody's living in it and it's deemed to be condemned. It has to be taken down and the owner has no plans to rebuild yet. What happens?

Mr Rogers: There are some assumptions that you've made there. There's a building in Newmarket right at the moment that almost fits that situation. Newmarket is a growing community and there's a lot of development taking place. In this particular situation we have a developer who has essentially left a historic house, used it for a while but is now letting it go into disrepair.

In actual fact, our town has taken the steps, through subdivision agreements, to require that that building be moved to an appropriate location where another agency, a non-profit agency, will take over the restoration and maintenance of that building. That's the kind of thing this bill will give us the time to do if we were caught in tighter time frames than in this particular situation.

Newmarket has done that on occasion. We actually now have one section in our commercial area on Yonge Street that has three historic homes that have been moved from their original sites to this enclave of three historic homes. Two of them are being used for commercial purposes. The third one will be used for a combination of residential and commercial purposes.

Mr Gill: But the developer or the owner is not obliged to build within a certain time frame after you move it?

Mr Rogers: In those circumstances if we move it, that restriction wouldn't be there. If this bill does go through and is adopted, then the owner would actually have to have a building permit in hand before they would be allowed to demolish the property.

Mr Frank Mazzilli (London-Fanshawe): I just want to offer a few words of caution on that myself. Certainly there are some properties designated heritage that are not homes but are larger, perhaps older commercial buildings. You get into a very heated debate in communities about converting these to meet the present code and the present needs. Putting someone in that situation where they must make the investment, without having any plans to do so, can be very dangerous if discretion is not used at the municipal level. My concern is, now that you have a bill, that you say to people, "This is what we do because it's the law and it's been authorized by the provincial Legislature."

Mr Rogers: That's certainly not our intention. Our intention is to give us an opportunity to work with the owner to make sure that the building can be preserved, if it can; if it can't, then to be able to inventory it and make sure we know that it was part of the history of Newmarket.

I can actually relate that the town itself owns a historic building. We're just in the process of selling it. It's a designated building, and we're making sure that the designations will continue.

Mr Pat Hoy (Chatham-Kent Essex): The Ontario Heritage Act will provide for the definition of "a building to be demolished." You don't anticipate your municipality itself doing that ahead of the Ontario Heritage Act?

Mr Rogers: No.

Mr Hoy: I think that's an important part of it.

Mr Rogers: I'm pleased to know that the province is moving forward with those amendments to the heritage act. We certainly would encourage that those be brought forward as quickly as possible. We're not going to be trying to change definitions or do anything strange that would run afoul of the provincial legislation. We certainly respect the fact that the province is the body that will define those things.

The Chair: Counsel, given the parliamentary assistant's comments that the government intends to amend the heritage act, it might be instructive for all members of the committee if you could elaborate just a bit more on why the existing heritage act doesn't provide sufficient protection for heritage and historic buildings. I know you've touched on it, but I myself would be interested to know how it falls short and doesn't give the municipality enough tools to work with.

Mr Rogers: The concern has been that in certain circumstances someone would come in with a demolition permit and the only reason they were going to demolish the building was to leave the land vacant and not have any plans for what would happen in the future to those lands. Consequently, sometimes that would encourage people not to maintain their heritage buildings that they had acquired. It's this concern. If, because of this requirement, we can ensure that people actually have a plan for that particular property before they come in for a demolition permit, then we would ensure that there really is a true plan for development of the site.

In many instances, what our municipality tries to do is to maintain, if the building is going to disappear, that the new building that replaces it has some aspect of that original building in the design, that they maintain the heritage concepts. If it's just that somebody is allowed to walk in and demolish the building upon application for a demolition permit, then it's a process that doesn't allow for appropriate negotiations.

The Chair: So this just gives a little more leverage in the discussions with any potential owner or developer?

Mr Rogers: Yes. I think there are certain people who would be very happy if they said, "The building is designated, and once it's designated you can't do anything with it," but I think the reality of the situation is that you have to realize that some buildings just aren't capable of undergoing the appropriate renovations to make them usable and a financially feasible or economically viable buildings. We understand the reality of the situation, but it's just that often time can cure some of the issues and can help resolve some of the issues, if there is enough time and if there is really a plan in place to replace that building with an appropriate new facility.

The Chair: I read the background materials a while ago. Do I understand that there is support from other levels, regional or other municipalities that have looked at this?

Mr Rogers: Yes. In actual fact, our bill is modelled on the Richmond Hill and Markham bills. So within York region itself there are two other municipalities that have similar private legislation.

The Chair: So essentially there's harmonization, then, of the rules in the region, which is useful.

Mr Rogers: Yes, it's very useful.

The Chair: Committee members, any further questions or debate? Are you ready to proceed to the vote, then?

Are there any amendments being put forward to the bill? No. Then we will proceed through all sections on one vote.

Shall sections 1 through 10 of Bill Pr9, An Act respecting the Town of Newmarket, presented by Ms Munro, MPP, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? It shall be done.

Thank you very much for appearing before the committee today.

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CITY OF ELLIOT LAKE ACT, 2001

Consideration of Bill Pr4, An Act respecting the City of Elliot Lake.

The Chair: The next item of business is Bill Pr4, An Act respecting the City of Elliot Lake, sponsored by MPP Mike Brown. The applicant is the corporation of the city of Elliot Lake, represented by George Farkouh, the mayor; Troy Speck, chief administrative officer; Virginia MacLean, the counsel. I think that's it in terms of the people who are here. It's good to see you all again.

Mr Brown, would you like to make some introductory comments with respect to this?

Mr Michael A. Brown (Algoma-Manitoulin): Good morning, Madam Chair. I'm delighted to be here. I'm sponsoring this bill on behalf of the municipality of the city of Elliot Lake. Troy Speck is to my right; George Farkouh, the mayor of Elliot Lake, is to my immediate left; and Virginia MacLean, obviously, at the end. I am going to turn the presentation over to Mr Farkouh to make the case for the city of Elliot Lake.

Mr George Farkouh: Thank you very much, Mr Brown. Thank you very much, Madam Chair and members of the committee, for permitting us to speak before you. I bring you greetings from the citizens of Elliot Lake. I know you've visited and we've had some discussions in the past.

I would like to begin by giving just a brief history, because I think I can put it in perspective as to why we're here today and why we're asking for this special bill.

Elliot Lake is a young community that was literally carved out of the Canadian Shield in the early 1950s when they discovered uranium. The community very quickly grew to over 24,000 people. Then they had the first bust and it became a ghost town, basically, and I lived it from the late 1950s to the mid-1960s. Then Elliot Lake came back to life once uranium was used for a positive use, which was electrical energy. Then of course we had the second bust in 1990, about 11 years ago,

when the price of uranium collapsed and Elliot Lake could no longer compete. We lost 4,500 full-time jobs, our entire industry, and with that, another 4,500 secondary jobs.

Elliot Lake is unique because it is surrounded by crown land. There is a map that you have. As you can see from the map, Elliot Lake is made up of nine townships. It was nine townships to permit the taxation of all the mining operations within that jurisdiction. That's why it was made so large from day one. I think it was very wise.

At the same time, all the land is of course owned by the crown. Something very unique happened with the Living Legacy process in that all the land on either side of Elliot Lake has virtually been set aside for public use and preserved for the legacy of parks and other long-term environmental usage. As a result, the area that we are speaking about, where these cottage lots would be developed, has already been isolated by the Ministry of Natural Resources for this purpose.

As a result of the collapse of our industry, our economy collapsed and our vacancy rate shot up to over 30%. We lost our entire industrial base, and today 80% of our taxation is residential. Especially with the market value assessment, it has impacted adversely on our community. Today our tax rates are double that of any other community in Ontario. At the same time, we developed a strategy in order to resurrect our economy, and that strategy has been predicated on retirement living, attracting retirees to our community—and we have been very successful at that—cottaging, tourism and arts and culture.

With the low market value assessment, our properties are actually selling for about a third of their replacement value. I'll give you an example of an industrial property that had damage done to it. The insurance paid to replace it. It cost \$200,000. We had an interested party, a local business that wished to buy it, so we did a market value assessment on it and it was assessed at \$90,000. The purchaser wouldn't pay \$90,000; in fact, we had to negotiate a price of \$75,000 for a property that was already in place and that had just had the building replaced for \$200,000.

As a result, we have serious problems with our assessment, one of the areas where we could become self-sufficient again. Currently we are before the province of Ontario asking for assistance because we cannot sustain our services without charging exorbitant taxes to our local taxpayers. The only way to do it is to increase our assessment base. One of the few areas we have available to us currently to increase our assessment base is to develop waterfront development and other cottage properties.

Mr Bisson?

Mr Gilles Bisson (Timmins-James Bay): I was just trying to get the Chair's attention.

The Chair: Could we wait until the presentation is completed?

Mr Bisson: Yes. I just want to be on the list.

Mr Farkouh: We started a process in 1995, when the present government was elected and the Honourable Chris Hodgson was the Minister of Northern Development and Mines and the Minister of Natural Resources. He was a strong proponent of shoreline development and started the process that followed, and that we're still in, of environmental assessment, public hearings, all sorts of fishery studies and water quality, and I think Mr Speck will speak to that. That process is ongoing; we have not completed it.

What we are asking here is for a private member's bill that will allow the city of Elliot Lake—once and when the process has been completed and the Ministry of Natural Resources is satisfied with all the assessments that have taken place and they're prepared—to turn over some of the land for development. At the present time, if a private developer was to come forward, they could actually go to the Ministry of Natural Resources and acquire that land. We're not asking anything unusual, because currently municipalities are permitted under the Municipal Act to develop industrial and commercial land.

In depressed areas in northern Ontario it's very difficult to find any private developers coming forward. You can't find them, so the municipalities often have to develop the industrial park. The municipality has to develop the commercial area and then hope to market it and sell it to the private sector. It's very difficult and it's very tedious.

We're asking for the same permission and privilege here to allow us to—once the environmental assessment hearings and all the objectors have been heard and addressed, then the ministry will make that decision. That's not our decision to develop anything until the Minister of Natural Resources says, "You're permitted to go ahead with it." That's all we're asking for. We're asking for your permission to approve this bill for the House and then it will allow us to go on with our process. Thank you.

The Chair: Mr Speck or Ms MacLean, do you have comments to add?

Mr Troy Speck: Yes, thank you, Madam Chairman and members of the committee. As His Worship has indicated, Elliot Lake started looking into the potential for cottage-lot development almost immediately, in the early 1990s, once we realized what our economic situation was going to be with the loss of the mining industry. Fortunately the MNR, with the support of Minister Hodgson, finally in around 1995-97 gave us the indication that they were willingly to look at Elliot Lake as a pilot project for cottaging in Ontario.

The way the process started was with the establishment of two committees: first, an interministerial committee, and second, a local waterfront development committee. In the packages that you received this morning you'll see a copy of the makeup of each of those committees together with what the mandate of each of those committees was.

The first thing that the committee had to do was get a sense of what was out there. At some point we hope to develop cottage lots around a lake or certain lakes, but because the land is all owned by the crown we have to get a sense of which lakes the community felt would be beneficial to develop and then take that list to the MNR and the other provincial ministries and get their feedback on which ones of those they felt we could reasonably go ahead with on an environmental basis.

We started out with a list of approximately 76 lakes, again just taking a look at what's out there. It went through several sieving criteria, taking out lakes that were too small, too far away from the municipality proper, lakes that could be accessed through communities other than Elliot Lake, because keep in mind this is an economic development project for Elliot Lake. That is how it was viewed and it was on that basis that it received the support of the Ministry of Natural Resources.

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Eventually the committee came up with a short list of 20 lakes. Lake management plans were developed for each of those 20 lakes. In the packages that you received this morning is a copy of a table of contents showing what type of information is contained in each of those lake management plans. I think you'll agree it's fairly extensive. Those lake management plans were developed with the assistance of the Laurentian University field station, on the direction of the Ministry of Natural Resources.

A copy of the lake management plans for each of the 20 lakes was provided to each of the ministries that participated in the interministerial committee. They were asked to review the plans and provide any comments they had on our plans with regard to their individual mandates. Those comments were received, reviewed by both the city and MNR and, where the MNR deemed appropriate, amendments were made to the plans.

Concurrent with the development of the lake management plans, there were essentially three main sieving criteria used in determining which lakes could proceed forward with development and to determine how many cottage lots each lake could conceivably withstand development for.

In terms of the first process, historically MNR and the Ministry of the Environment had never had a policy for cottage lot development on lake trout lakes. Lake trout were always considered to be a sensitive fish and no policy had been developed. During the course of the three or four years that we've been doing our lake management plans, the Ministry of Natural Resources and the Ministry of the Environment have been developing their policy on lake trout lakes.

Essentially, the policy they have developed centres around dissolved oxygen in the water, which is apparently the most necessary element to the viability of lake trout. The policy essentially is that if any lake tests as having fewer than seven parts per million of dissolved oxygen in it, then that lake is not acceptable for development. As a result, when each of those 20 lake manage-

ment plans were developed, they were also tested for their dissolved oxygen levels on three occasions.

As a result of that, the list of lakes eligible for development was reduced from 20 to 11, and those 11 lakes either met the minimum requirement of seven parts per million of dissolved oxygen or were not trout lakes to begin with. The 11 lakes that I'm referring to are the 11 lakes that are highlighted in dark blue on the map that you have before you today.

In addition, the second sieving criterion was phosphorous levels. Phosphorous is a by-product of septic systems, use of fertilizers and the like. A scientific model used by the MNR and the Ministry of the Environment called the Dillon's model was applied to determine what level of development in terms of numbers of cottages each lake could withstand, without affecting the lake's water quality.

You have, in the package that was provided to you this morning, a chart that lists the 11 lakes that are currently still eligible. The first column after the name of the lake will show you the number of lots that the Dillon's model shows that lake could withstand, without impacting that lake's water quality. I'll now refer to the third column in that chart. That's the third sieving criterion, probably, because of the terrain in the Elliot Lake area, the most severe sieving criterion. That was the criterion that was established by the Algoma Health Unit with regard to septic systems. Those requirements provide that you can't have a septic system on a lot that has less than one metre of soil depth and has greater than a 25-degree slope toward the lake.

The Laurentian University field station went around each of the candidate lakes, digging test pits and doing transects to determine the soil depth and the slope toward the lake. In the end, that testing showed that there are limited areas around most of the lakes, again because of the terrain, that could actually meet the requirements. As a result of that, the health unit requirements for septic systems limit the number of cottages that can actually be developed on those lakes, in most cases to a number that is far below what the Dillon's model shows that lake could withstand without impacting water quality. Those are the numbers in the third column of the graph that you have before you.

Throughout this lake selection process, there has been opportunity for the public to have input and review. Public information centres were held in February 1999 and again in December 2000. At both centres, the public were given the opportunity to ask questions of committee members and of ministry representatives and to submit written comments. Written comments are reviewed by both the municipality and the Ministry of Natural Resources and, where the MNR feels appropriate, changes are made to the lake management plans.

In addition to the public information centres, the committee was also requested to and did hold separate information and question sessions for the Penokean Hills Field Naturalists in November 2000 and the Elliot Lake and District Chamber of Commerce in December 2000.

The committee also appeared before the new council in late 2000 to update the mayor and the new council members on the process, where it stood, and to answer any questions.

I think it's important to keep in mind that the public information sessions I have referred to will not be the end to public input in this process. Although we have been in this process for three or four years, we are really still early on in the process. We're at the stage of still identifying which lakes the ministry will let us go ahead and develop on. The city of Elliot Lake will then have to determine, of those lakes, which ones we want to go ahead with.

Before one cottage is built on one lake, there are a number of provincial planning policies and planning legislation that have to be adhered to. Any area around any lake will have to be rezoned. There will have to be amendments to our city's official plan. All of those are processes that are public processes requiring notice to the public and the opportunity for public input and comment before any decision is made by the council.

In terms of where we're at now, again, the second public information centre was held in December 2000. The municipality and MNR are currently reviewing the comments that were submitted at that time. Once MNR has finished reviewing them, all comments will be responded to, and we expect that MNR will come back to the municipality, hopefully within the next two to three months, to tell us of those 11 lakes that are still being considered, which ones they deem are appropriate for us to go ahead with.

The Chair: Thank you. Miss MacLean?

Miss Virginia MacLean: Thank you, Madam Chair. I'd like to address just briefly the objections that you have before you. I think in your package there are substantial objections, and I just want to briefly outline what I think, in summary, are the concerns that have been addressed in those objections, and advise you how, in our opinion, this bill does not take away anyone's rights to continue to object in the proper forum.

First of all, the Penokean Hills Field Naturalists, you'll notice, have very many environmental impact concerns. And as you heard from Mr Speck, we have many fewer lakes now than we did originally. It was a year ago when their first letter went in and there was double the number of lakes that we're looking at right now. That whole process, as we know, is subject to the Environmental Protection Act. The legislation specifically will make this process subject both to the Planning Act and the Environmental Assessment Act. So there's no doubt that this municipality would be acting the same as any other developer on these lakes and be subject to exactly the same legislation.

There is concern about lack of consultation. You've heard Mr Speck refer to the public meetings that have been held, and that was just by way of introduction with respect to looking at the lakes. The public process, as we all know, under the Planning Act, is very exhaustive, and if the lands have to be rezoned, there has to be an official

plan amendment. Both of those involve public process with the right of appeal to the Ontario Municipal Board, so potentially we could be talking about an exhaustive Ontario Municipal Board hearing before anything is done on any of these lakes. Every one of these ratepayers would therefore be entitled to attend such a hearing, which would be held in Elliot Lake.

The restrictive public access to the lakes is another issue, but that is premature in terms of argument, because that's part of the planning and the process. When there is something approved, if the municipality is granted power to become a developer, then they will be implementing the plans pursuant to the Planning Act, and that would be part of the plan.

Negative impact on ecotourism is another thing that's addressed. Again, Environmental Protection Act policies and Planning Act policies would diminish any negative impact.

A lack of market feasibility study, you've heard the comments of His Worship on that very issue. I would suggest that is a matter of misunderstanding by the people who are objecting, but again, it's something that can be addressed.

The scale of the project was very much a concern a year ago. That has diminished as the number of lakes involved has diminished and the number of lots has diminished. So there is a change in scale, and we still don't know what the scale is.

The cost of development is high. One objector was talking about roads and services. As you will notice, this bill is very unique. There are no roads or services being provided by the municipality, specifically so that we don't have the costs. The municipality cannot afford the costs of installing services in their cottage lots, and the services are not necessary. A lot of access will be by water. There will be some public docks constructed, but there will be very minimal municipal services provided at all.

Public information and lack of public information, public meetings, as I said, is another concern. Again, that will be addressed if this municipality is granted the power and has to go through the planning process. There will be full and fair hearings and full opportunity for everyone to express their opinion.

So those are the comments I'd like to make, Madam Chair, with respect, to the objection.

1040

The Chair: Anything else from the applicants at this point? Are there any interested parties who have attended to present on this bill today? Seeing none, may I ask the parliamentary assistant for comments from the government?

Mr Kells: Actually, as Mr Speck and Miss MacLean explained, the bill certainly has a history, and I'll just take us through it very briefly.

Over a year ago there was a first draft, and the ministries involved had a chance at that time to review it. A revised draft was circulated by legislative counsel in June 2000. Mr Clement, the minister at that time, met

with the mayor to discuss the bill, and that was over a year ago too. The proponents at that time indicated they would be back in the spring of 2001, and indeed here they are.

The comments from the ministry are very basic. It's supported by the northern development ministry. In this case, the minister at that time was Tim Hudak, and he and his ministry are on record as supporting the private bill. Also, in a very major way, the natural resources ministry supports the project. We've received no other substantive concerns from other ministries on the proposals, and the Ministry of Citizenship, Culture and Recreation and the Ministry of Energy have indicated no concerns.

As you know, the bill will establish a statutory corporation. I guess it's also of note that three years ago the Northwestern Ontario Municipal Association, NOMA, formed a committee to explore options relative to crown land for the purpose of lakefront cottage lot development. So it even has a history in that direction.

On the other hand, ongoing discussions with municipalities continued through the fall of 2000 as part of the Municipal Act reform consultation on the issue of municipalities' request to be able to form business corporations. The proposal to cabinet for a new Municipal Act includes recommendations to enable the establishment of municipal corporations subject to the minister's regulation prescribing a list of purposes for which corporations are permitted. There are limits on powers and other requirements.

In this regard, the Elliot Lake proposed bill—and I guess the operative word here is "could"—could provide a pilot project to examine issues and direction within a limited context of cottage development on crown land. As the solicitor indicated, the preamble to the bill has also been amended to state that the purpose is to allow Elliot Lake to develop residential property without providing municipal services.

Finally, as to the revised bill that we have before us and the written comments that we have from the city of Elliot Lake addressing the problems, our ministry has no objection to the proposed bill.

I probably would share with the Chair just a little concern, and I believe the solicitor tried to address it. The only thing that jumps out at me in the e-mail I have in front of me is that it indicates, "Written responses, which were promised, have not been received following the public information centre held last December." I wondered if possibly the solicitor could address that concern.

Mr Speck: The public information session was held on December 20. People were given 32 days, I believe, to provide their comments. We received comments from just shy of 100 people. Some of them require fairly simple responses: people who just say, "We're in favour of it. It's about time. Go ahead." There were also some comments that had some fairly detailed questions and fairly technical questions, and I think it's incumbent upon us to give good answers to those questions. As a result of that, those letters were forwarded to the environmental

consultants that we have engaged through this process, Ontech Environmental. We've asked for their assistance in formulating responses to those technical questions. Comments and the responses that we propose to give to them have to be reviewed and approved by the Ministry of Natural Resources. The letter that goes back to the people will be signed by both myself and by Mr Dick Hagman, who is the regional supervisor for MNR.

As you can appreciate, that process takes a little bit of time. It is ongoing. I can advise the committee that we had a meeting two weeks ago at which we had drafted roughly two thirds of the responses. We're targeting the end of this month or early June to have all the responses ready. What we wanted to avoid was sending some responses back to people and not to others. We wanted to be in a position to respond to everybody before we responded to anybody.

Miss MacLean: I would add that with respect to Mr Devereux, Mr Devereux has a letter. He attended before council in May 2000 and he made the same submission in May 2000. There has been communication with Mr Devereux, but I guess it's just a lack of understanding. Notwithstanding the fact he has had an opportunity to attend and he knows what the issues are, he still has the same position. Those of us who have a municipal background appreciate that this does happen from time to time.

There has not been a lack of communication by the municipality. Moreover, this municipality put a notice in the newspaper with respect to this hearing and they were not obligated to do so, but because of the time lag between advertising and coming to the committee, that's why notice was put in the newspaper. I think in fact that's probably why you have more recent response than you would have had otherwise.

The Chair: Before we move to questions and comments from committee, I would like to ask if the parliamentary assistant or if there are spokespeople for the ministry who may want to respond to this.

It's my understanding from discussions with legislative research and the parliamentary assistant that this in fact is precedent-setting legislation, which is not necessarily a bad thing. It's just that it approaches a unique issue in terms of development of crown lands and the role of municipalities in playing that role, as opposed to the province or private developers. Therefore, the committee is looking at something that is novel, interesting, innovative, and has all the attendant problems with that as people chart uncharted waters.

I would like to ask the parliamentary assistant whether or not the government, in looking at making amendments to the Municipal Act potentially down the road, sees any problems at all in proceeding with this bill as a private bill, as opposed to bringing it forward as a broader policy discussion about whether it is appropriate for municipalities to be given these kinds of powers.

Mr Kells: It's a very pertinent question. Naturally, as you may suspect, we have discussed it a great deal. The question remains in some sense unanswered, even though

the ministry has taken a position that we support the Elliot Lake bill.

We could have taken the position, I assume, that maybe the Elliot Lake private bill could wait for the Municipal Act, but in the schedule of politics, as you know, that is asking the city to put a great deal of faith in the speed at which we can move things along here.

We have no objections and we do see it as precedent-setting, but it's precedent-setting in a direction that we're going anyway. Unless there are some dramatic changes—it's not an amended Municipal Act, it's going to be a new Municipal Act—then we couldn't see any sound and basic reason to hold up this request by Elliot Lake.

Mr Bisson: Basically you're going in a direction that I want to ask questions about of the clerk. As I understand it, this committee can only deal with bills that don't set policy or change policies of the provincial government. Is this bill actually in order? Because it seems to me that what we're actually doing here is setting policy, albeit the government agrees. In this case they agree, so we're going to allow the bill to go forward. But what happens if I, as a committee member, come with a bill that the government is not in agreement with that again sets policy? I would be ruled out of order, it would seem to me. Is it in order?

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Ms Susan Klein: Can I answer that?

Mr Bisson: Yes, whoever.

The Chair: We have someone from legislative research. She's taken some time to look into the precedent-setting nature of this and what has come before committee before. It is a pertinent question we need to look at.

Ms Klein: Actually I'm legislative counsel.

The Chair: Right.

Ms Klein: The question's about—

Mr Bisson: Is this bill in order?

Ms Klein: I think the question is, is it appropriate to introduce legislation like this as private legislation, and that's under rules of parliamentary procedure.

We have a history, in terms of municipal private bills, of private bills having novel, unique subject matters that, if they were an amendment to the Municipal Act that applied across the province, would be a change of policy for the whole province but are nonetheless done in a local circumstance and allowable for private bill process in one municipality. So it's not inappropriate for private legislation.

Mr Bisson: You wait to see the bill I'm going to bring before this committee if that's the case.

That's useful, because that means to say that as a northern member, if I have an issue dealing with First Nations, I can set policy because it's only specific to a certain geographical part of this province, if I understand what you're saying.

The Chair: Municipal. I think if you listen to—

Mr Bisson: Well, this is First Nations communities.

Ms Klein: I wouldn't want to say exactly on a particular bill, but I think I'd have to answer on a general basis and that is that you do see private legislation giving a municipality a power and exemption from the general municipal law that applies across the province.

For example, years and years ago the issue of smoking in the workplace began as private legislation, I think in the city of Toronto. A number of municipalities followed suit, and ultimately the government passed labour legislation, the Smoking in the Workplace Act, but it began in localities, in individual municipalities, as private legislation.

Mr Bisson: The reason I raise this is we're dealing with development issues in Attawapiskat as we speak. There's a fairly large amount of activity there when it comes to exploration and advanced exploration in diamond mines. What I think you're telling me is that I as a member can come to this committee and introduce an act respecting the reserve of Attawapiskat to deal with an issue that probably has a broader scope than this committee can deal with. If that's the case, thank you.

Ms Klein: You're also raising aboriginal issues. I don't know—it's a whole different story.

The Chair: If I may, Mr Bisson, if I could interject at this time, I don't think legislative counsel can, in a clairvoyant way, give an opinion with respect to the bill that you may bring forward.

Ms Klein: Thank you.

Mr Bisson: I'm just opening the doors for my bill.

The Chair: Having just consulted with the clerk of the committee in terms of the process of this bill getting here, there would have been a review by the clerk's office and although it is precedent setting and it appears larger in scope because of the nature of what we're dealing with, it has been deemed to be appropriate to be before this committee because it deals with one particular municipality.

Mr Bisson: I just wanted all that on the record. That's all I wanted. I do have questions—

The Chair: We're just putting enough on the record for you to have ammunition to make your arguments in the future, that's all.

Mr Bisson: That's right, that's exactly what I'm up to.

The Chair: Mr Mazzilli.

Mr Bisson: I have some questions of the presenter.

The Chair: I'm sorry. Would you proceed quickly with that, then, and we'll go to Mr Mazzilli.

Mr Bisson: I've got a bunch of questions but I'm in the Chair's hands. I have a series of about five or six questions.

The Chair: OK, let me go to Mr Mazzilli and we'll come back to you.

Mr Mazzilli: I just have a couple of questions, and then I'll turn it back over to Mr Bisson.

Your Worship, I understand the dilemma that you're in. You probably know London more than I know Elliot Lake, so just give me a quick education here. What's the gross tax base for the township of Elliot Lake?

Mr Farkouh: Just to give you an example, last year we collected approximately \$8.2 million. As a result of reassessment, which takes place annually, as you well know, we lost 9.1% of our revenue, or \$740,000.

Mr Mazzilli: How many lots do you anticipate out of this whole process?

Mr Farkouh: This is to be determined by the process. As Mr Speck has indicated, we're still not even there—

Mr Mazzilli: Approximately. What would you envision?

Mr Farkouh: Approximately 450 to 500 lots.

Mr Mazzilli: So at your best scope, you're looking at 500 lots, is that it?

Mr Farkouh: Yes, given—

Mr Mazzilli: I'm trying to move along with this. What would you expect property taxes on a lot with no services to be per year?

Mr Farkouh: I would say anywhere between \$1,000 to \$1,500 a year. First of all, we would have conditions that if any of these lots are to be sold to an individual, they would have to build on them within a short period of time, probably two years. We're only interested in this project as economic development. We're not interested in speculators, buying the land and holding it in land banks.

We still have research to do as we go through the process, but our main objective here is this will have a two-phase economic benefit to the community: (1) from the tax revenue that we will gain; and (2) from the actual economic activity that will happen as a result of the construction and the purchase of material, and then from the visitation of the individuals who would come to these cottages.

Mr Mazzilli: I understand you're in a dilemma: you've just lost \$700,000 in tax—

Mr Farkouh: Just last year.

Mr Mazzilli: —and you want to get it back quickly, and \$500,000 you're saying can be salvaged, \$500,000 to \$700,000 out of this proposal?

Mr Farkouh: Yes.

Mr Mazzilli: The job creation is certainly very temporary when it comes to construction. So you have 500 homes go up and it's over. Certainly there's some ongoing economic impact. I just ask the broader public question about selling the entire shoreline or a good part of the shoreline for a tax base of \$500,000 a year. It's just a dilemma that—

Mr Farkouh: Actually, if you look at the map that was provided, we are talking about probably less than 1% of a shoreline, which is a very small portion. The process of Lands for Life has already identified that all the massive area to the east and the north and the west of us has already been reserved for crown reserve and public land, parks. Many of those lakes—I think this should be pointed out—are within the municipal boundary and have been part of the chain where our whole industry has been involved. We're not talking about the most pristine lakes here. Those have been pulled off, as Mr Speck indicated, through the filtration process.

Mr Mazzilli: I have no further questions.

Mr Bisson: First of all, to the mayor: I just want to go through the map here. Basically, the areas in red around the lakes that are traced dark blue are the proposed, at this point, cottage lots development.

Mr Farkouh: Yes.

Mr Bisson: And that's going to be narrowed down—

Mr Farkouh: Maybe Mr Speck can answer.

Mr Speck: Can I clarify that? What the areas in red around each of those lakes show, those are the areas around each of those lakes that would meet the health unit requirements for septic systems in terms of depth and slope.

Mr Bisson: Those are the ones you're looking at?

Mr Speck: Those are the only areas where we could put cottages on those lakes.

Mr Bisson: And you're going through a process that's going to narrow this down, I take it, to the actual acceptable lots for development?

Mr Speck: We're waiting right now for the MNR to tell us how many of those 11 lakes they're OK with our going ahead and buying for cottage development.

Mr Bisson: When do you figure there's going to be a decision made as to how many lots we're really talking about and which ones?

Mr Speck: Once the MNR comes back to the city with, "OK, these are the eight lakes you can go ahead on," then it will be up to city council to—

Mr Bisson: No, when? When do you figure the MNR will be done its due diligence?

Mr Speck: From what they tell me, sometime within the next two to three months.

Mr Bisson: OK, so that's the first part of the question.

To the mayor, I have a question: how much tax would you actually pay on a home now? If I'm a homeowner, a three-bedroom bungalow in Elliot Lake, what's the annual tax bill?

Mr Farkouh: I'll give you an example.

Mr Bisson: I know the value is low so your taxes are higher.

Mr Farkouh: Yes, the normal tax rate anywhere in the world is about 1.5% to 1.7%. Elliot Lake is nearly double. We're about 3.2% to 3.3%. The average home in Elliot Lake is around \$55,000 to \$60,000. So \$60,000 times three, you're looking at about \$1,800 to \$1,900. So we're looking at an average cottage of about \$50,000 or less.

Mr Bisson: So your tax rate is higher because your value is—

Mr Farkouh: Because our values are low, yes.

Mr Bisson: But your taxes overall are actually fairly competitive with some of the other jurisdictions.

Mr Farkouh: Yes.

Mr Bisson: Just to put on the record. I don't want to scare people away from Elliot Lake, you know.

Mr Farkouh: But we did something unique for the cottage—

Mr Bisson: I've got to do your job for you.

Mr Farkouh: But just a follow-up to Mr Bisson: we were having problems with some of the waterfront

properties paying excessive taxes, so we created within the rules a rural rate, which is about a third lower than the actual urban rate.

Mr Bisson: The other question I have is this issue of road access versus water access. Most of these lakes, as I look on the map—and I've been in your area a number of times—have a road going to a public beach.

Mr Farkouh: Logging roads and that.

Mr Bisson: So most of these lakes already have road access.

Mr Farkouh: Yes.

Mr Bisson: The issue is you're not going to build roads to the actual cottage lots.

Mr Farkouh: No.

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Mr Bisson: So cottagers who buy these lots are under the assumption that they are water-access lots, by and large.

Mr Farkouh: Correct.

Mr Bisson: The concern that opponents have raised in the e-mails we have seen is that they say, "We don't want this costing the municipality any money." I take it you don't have any development costs other than the transfers of land and legal costs dealing with MNR and stuff. Can you give us a bit more of a sense of what you expect this to cost you?

Mr Farkouh: We hope it will not cost us anything. In part of the bill, I believe, it is also spelled out that any revenues that would be generated from the sale of these lots would be set aside in a reserve account to be used for the purpose of economic development. So no money will come into our own treasury to subsidize our normal operations, but in fact we would use those funds to continue to develop other economic development initiatives so that we can increase our tax base.

Mr Bisson: But pertinent to the inquiry in the e-mails, you're telling me, as the mayor of Elliot Lake—I was going to say Iroquois Falls. They're going through another crisis. It seems that's happening all over northern Ontario, unfortunately. In response to the people who have sent the e-mails, you're saying that you don't anticipate the municipality putting out any outlay of cash for what would be development of roads, sewers, water, all of that stuff, other than the public docks.

Mr Farkouh: Only if there's an anticipation of an offsetting revenue for that money. We would not spend one dollar unless we were assured that there would be revenue to offset that one dollar.

Mr Bisson: The other question I have is this whole issue of residential versus cottages, as spelled out in the bill. Mr Speck can probably respond to this. The e-mail talks about the bill, and it basically talks about residential properties, residential development. They ask for it to say "cottage" so that it's clear that this is basically about seasonal homes and not about full-time residents who will come back later and say, "By the way, I want garbage pick-up, I want water, I want everything else." Can you speak to that? Is there an agreement that it has to

say "cottage," or is there some reason it has to say "resident"?

Mr Speck: I don't know in my own mind why a cottage isn't a residence. People reside in cottages. That's an issue that perplexes me a little bit. I can tell the committee that in the lake capacity numbers you have before you in that chart, those are the numbers of lots that each lake could withstand on a year-round basis. The reason we've done that is because we're fully aware that although someone will open up a cottage, they may use it in the winter, they may use it in the summertime, especially in northern Ontario where you're skidooing, you're fishing. People may wind up spending a large part of their time at this residence.

Mr Bisson: I hear what you're saying but my point—and I think you know where I'm going—is that residents want some kind of assurance that this is not a development for the sake of creating another residential development. They want to be assured, as I understand from the e-mails, that these are actually seasonal homes that people may go to at Christmastime or whenever.

Mr Farkouh: But on a practical basis, under the Assessment Act you have only one category and that's residential, multi-residential. So there is no distinction. Whenever there's an assessment done, you can't say, "This is a cottage assessment." It's residential, multi-residential, industrial, commercial and so on.

Mr Bisson: So you can't classify seasonal homes under a different classification?

Mr Farkouh: No, they're residential.

Mr Bisson: I wasn't aware of that. You learn every day here. So just for the record, there is a reason why it's being done.

I have a couple of questions for Mr Brown, as the local member, because I need your assistance on this part. This is the politics of the community as far as where things are coming from.

Interjection.

Mr Bisson: No, you're the MPP, brother. You thought you were getting away from this cheap, right? It's like Harry Truman: the buck stops here.

Mr Brown: Exactly.

Mr Bisson: The politics of this, people who are opposed, what is it all about? We were just given an e-mail this morning from Mr Barry Devereux saying that there were 500 people who have signed a petition in opposition to this. What's the opposition based on? What are people worried about? This is just so that we understand, as members, what this is all about.

Mr Brown: I was not at any of the public meetings myself so I can't speak directly to that. I have spoken to the Penokean Hills Field Naturalists on a number of occasions over the past year, or maybe more than a year—18 months perhaps—and have spoken just in the last couple of days to other people in that organization, and others. Part of the problem—and I think we're maybe going down that road here today—is, what does this bill do? This bill does not permit one lot anywhere. It does not do that. All this bill does is allow the

municipality to act as a developer, which it could, if you were going to put a hotel on this property, if you were going to put a sawmill on this property, if you were going to put a pulp and paper plant on this property. The municipality, and any municipality in Ontario, could develop an industrial land base.

The city has asked me—and I believe it's incumbent as the local member to bring these bills forward as they come to me—"Do you think it's appropriate?" I come from a government back in 1987 that ran on a platform that crown land as a development tool was a legitimate thing to do. You have to understand that only—I don't know what the exact percentage is—maybe 2% or 3% or 4% of the entire city of Elliot Lake is private land. It is crown land. It is one of the things that you would know from Timmins, which I think is the largest municipality by area in Canada, that there are huge issues that you as a northern member and I as a northern member deal with to deal with crown land. It would be much simpler if this was my home county of Lambton where it's all private land. We know how to deal with that. But when we're dealing with northern communities that have economic concerns, we don't have huge development pressures. We need jobs, we need economic development, but at the same time we understand that we need a strong—probably northerners, as you would know, Mr Bisson, have more real knowledge of the environment than anybody. We live it day after day after day. So we don't want to destroy any of this.

I'm not certain there will be one lot that comes out of this development, because there are decisions about the environment, there are decisions through the Planning Act, there are decisions by the Ministry of Natural Resources. Basically, there are going to be some hard decisions by the city of Elliot Lake as to whether this makes any economic sense at all. But I don't think it's my job as a member of the Legislature to decide that. I think, provided that the local people who are elected—there has been an election in the interim, I would remind members, where this was an issue that was discussed widely in the public. I would agree there's some controversy. I would also tell you that most of it, in my view, can be resolved. Mr Speck made the point that this is just one stop in the process here, but the process stops if we say no. But there's nothing to stop Mike Brown or Gilles Bisson or Pat Hoy or Frank Mazzilli from going to the Ministry of Natural Resources tomorrow and saying, "I would like to purchase this property on that lake." As you know, they do so, and develop it under all the rules that the city of Elliot Lake will have.

So the question before this committee is not: should there be development? It is: is it appropriate that the municipality does that? That is really what it boils right down to. It isn't a decision about how many cottage lots, how many lakes, what's the environment. The decision that we are being asked as a committee to make is: is it appropriate for the municipality to act as a developer for residential property?

Mr Bisson: That is a really good question.

Mr Brown: That is the question. I have said that's the decision, and essentially the only decision that really is being made here. We're not deciding about the environment, we're not deciding about natural resources' view of the world, we're not deciding about the economics; we're deciding, should the municipality be able to make the economic judgment and would the municipality then be subject to all the other rules that a private developer would be?

The Chair: Mr Bisson, if you have one more question to put, I'm going to go on to other members and we can come back for more after.

Mr Bisson: Just to finish—and I have others and I'll come back in rotation—you didn't answer my original question, but that was an interesting point because it comes back to the first one, which is we're sort of being asked to make a decision around policy and how the ministry disposes of crown land for the sake of seasonal homes. I'm not so sure that is something that I've really given a lot of thought to at this point, quite frankly, and what the implications are overall.

I just want to understand from a local perspective. The people who are opposing this, is it because they're saying, "We don't want a bunch of people from outside coming in and setting up cottages"? Are they worried they're not going to get dibs?

Mr Farkouh: I'll give you the politics of it, Madam Chair, with your permission.

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Mr Bisson: It takes a mayor to come to the point, right?

Mr Farkouh: Yes. Elliot Lake is very unique because we have transformed ourselves 180% in the last—

Mr Bisson: Degrees.

Mr Farkouh: Sorry, 360 degrees.

Mr Bisson: That's 180 degrees.

Mr Farkouh: Oh, 180 degrees, OK—in the last 11 years.

Mr Bisson: I'm good with numbers; I'm a New Democrat.

Mr Farkouh: I should be good with numbers; I'm a car salesman.

Mr Bisson: We're about even.

The Chair: You just tainted your image—

Interjections.

Mr Farkouh: Actually, Mr Devereux is a good customer of mine, and we get along personally quite well. Mr Devereux, during the last election, with this 500-signature petition, circulated a slate, and you know what slates are like in a municipal government: a mayor and six councillors; these are the only people you should vote for. I was not on his slate, because I was in favour of this development, and in his letter he talks about local real estate brokers—well, a local real estate broker was on the list as running for mayor against me.

To say the least, I'm still here, and I made my views perfectly clear to the public. I never hide anything from them. I think that's the essence of democracy: tell it the way it is and let the people decide. In fact, of the six

councillors, I believe maybe one or two might have been on his slate, but they're also in favour of this development, subject to all the controls that we're talking about. So there's not one of us on council who's opposed to this cottage lot development. We're all in favour of it, subject to all the controls.

As Mr Brown indicated and Mr Bisson will confirm, as northerners we realize our livelihood depends on the environment: the trees, the water, the rocks. As a result, we are more sensitive than people realize when it comes to environmental controls. We would not do anything in developing these lands that somehow would impact on our strategy, which is involving the attraction of retirees into our community, which is developing arts and culture, and tourism. If we felt for one minute that doing this project was contrary to our long-term objectives, I can assure this committee that we would not proceed with one dollar on it.

We feel it's compatible and it's consistent with our overall strategy, because we have a lot of trust in the process, and the process has been ongoing now for over 10 years actually, through all the steps. I can assure you the Ministry of Natural Resources is about as stringent when it comes to the lakes and the fish as any citizen in this province could ever be, and rightly so, because it belongs to the citizens of this province.

The Chair: Mr Speck briefly, and then I'd like to go on to other committee members.

Mr Speck: Again, to address Mr Bisson's question, "Where does the opposition come from?"

Mr Bisson: It takes a lawyer to answer this question.

Mr Speck: I think you'll see in most, if not all, of the letters of objection the comment, "We're not totally opposed to this. We're opposed to the scale." That's where a lot of the concern came from, and I think that was a result of the process. Remember, we had to at some point go to the MNR and say, "OK, here are the lakes we're interested in. Tell us which ones we could do." We wanted to avoid going to them with only three lakes to find out that none of them could be done. So we went out, as I said, at the outset, cast a broad net of 76 and then down to 20. Because the process had been so public at the outset, people said, "Oh, they're looking at 76 lakes; that's too many," not realizing that there was going to be a sieving process to get down to where we are now. So the scale really isn't what it was when those objections were made.

The Chair: OK, Mr Speck. I'd like to move on now.

Mr Gill: In terms of the number of lots—you just touched upon the number of lakes; you know, you started out with 76. What are you down to now?

Mr Speck: Eleven lakes.

Mr Gill: Most of the literature we saw talked about 19 out of 20 or something like that. So it's 11 now?

Mr Speck: Yes.

Mr Gill: In terms of putting into perspective the area that you're looking at versus the area allocated to Living Legacy, what sort of a ratio is there around the developmental area? How much is put aside as Living Legacy?

Mr Speck: I don't have those figures off the top of my head.

Mr Gill: Roughly. You know, 100 to 1?

Mr Farkouh: The Living Legacy compared to our area?

Mr Gill: Yes.

Mr Farkouh: I would say it's more than 100 to 1 that's been reserved for the Living Legacy. Our area is actually very small considering the large area around us that's being reserved as public area.

Mr Gill: On December 20 you had the public consultation process, and you said that since then there have been about 100 responses back. How many are positive and how many are negative? You said there are some positive and some negative.

Mr Speck: There are, and please keep in mind that the way it was set up was not for people to vote in favour of it or opposed to it.

Mr Gill: No, just a general sense of the letters.

Mr Speck: You get a general sense that 25% are absolutely in favour; 25% "in favour, but I want you to keep these things in mind"; 25% expressed some concerns again about the scale and issues like that but didn't say whether or not they were opposed to it or against it; and about 25% of those comments came back indicating that they were opposed.

Mr Gill: If everything was to go smoothly, when do you see the development taking place?

Mr Speck: We'd be lucky if we could start next summer. I think that would be optimistic. Probably the summer after that.

Mr Gill: Thank you, Madam Chair.

The Chair: Mr Bisson?

Mr Bisson: Yes, I still have some questions.

I guess the question I have is to Mr Brown. Considering that this stuff is still going through the process of the MNR and other ministries about how this is going to unfold, is this bill a bit premature at this point? Should we have waited until all of that was over so we knew what the hell we were really dealing with?

Mr Brown: You're asking the sponsor. Maybe somebody from the city might like to answer it better, but it would seem to me, Gilles, that until there's a proponent for a particular lot, there are no particular lots here. There are no particular subdivisions. There are no particular lakes being proposed. These are 11 lakes with a number of candidate parcels. You cannot go through the planning process, you cannot go through the rigorous MNR process, you can't go through the health unit process, you can't go through any of that process until you identify exactly the lot. You can't go through the plan of subdivision until you identify, and if there isn't a proponent for it at this point, ie, the city of Elliot Lake, then that work can't be done.

You're right, there's probably a little bit of chicken-or-egg stuff going on here but I think they've got to the point in the process that if they're not allowed to be the developers, they'll have to cede the development opportunities to a private developer.

Mr Bisson: But at this point we don't know—and I guess that's why I'm asking this question—neither the municipality nor the MNR or anybody really knows exactly what lakes we're talking about at the end and exactly what the process is going to be. That's why I'm wondering if this bill is a bit premature coming before this committee; if it should be more properly dealt with after at least the approvals process of MNR so we know what the heck we're talking about.

Mr Brown: I'll let George comment. I don't know if that's possible. It seems to me, again, this bill asks the question. The only question this bill is really asking is, should the municipality be a developer or not? When it boils down to it, that is the question, and you're right, that could be subject to a pretty broad debate about whether that could happen. But if the committee decides that the city of Elliot Lake cannot be, well, we'll have to wait until somebody private makes the proposal.

Mr Farkouh: I think I can answer Mr Bisson on this. I think we need to know whether we will be given the enabling legislation to proceed with this or not. If we don't have that assurance early on, and this is really late in the process of all the work we have done, then it makes it difficult for us to really formulate what strategy to follow once we get these approvals from the various ministries that are working in tandem with us at the present time.

I think it's appropriate to have this enabling legislation, this private member's bill, to allow us to know, OK, we have that hurdle out of the way, so if we are successful in addressing all the environmental issues, the planning issues and all the other things, then we can proceed to start working out how we will disperse these lots. Will it be by lottery system? Will it be by small developers? Will it be by the city? We don't know all these things. But if we can't do it, it's very hard for us to go to the next step.

1120

Mr Bisson: The essence of my question is that a lot of these questions have yet to be answered by the process that you've engaged in with the provincial government through the Ministry of Natural Resources and others, and that's why I'm wondering if this committee is actually dealing with this bill a little bit sooner than it should be.

The Chair: Could I just ask to have some clarification from the parliamentary assistant in terms of the government and the multi-ministry view on this as well? It might be helpful.

Mr Kells: I appreciate the thrust of your questions, but my briefing note here—no surprise what it says—says that the Ministry of Natural Resources is working with the city to ensure that potential development recognizes the sensitivity of lake trout, habitat protection, resource sustainability and that appropriate planning practices are being followed. Does that not speak to your concerns?

Mr Bisson: But there's the planning process and then there's also the other issue, which is, presently if I'm a

resident of the province of Ontario and I want to buy a cottage lot, there is a lottery system that's established by which we go in. The MNR does all the stuff that you're talking about with regard to the planning process. Once they've decided which lots to put up for sale, there's a process that the ministry then has that I can go and apply in the lottery system and then appropriately that goes on.

If I understand what the mayor is saying, you may or may not have a lottery system at the end of this process, which would be a different policy than is applied in other parts of the province, if you follow my drift. I'm just wondering. Some of those questions have to be answered, it seems to me, before we allow this bill to go forward.

Mr Kells: If I may, I'm also told by counsel for the ministry that municipalities can get into the residential development business under the Housing Development Act. I'm not sure on the history of this.

Mr Bisson: Can you explain that again, please?

Mr Kells: I could bring the counsel up if you would like.

Mr Bisson: Yes, it would be helpful. Don't misunderstand where I'm coming from. I understand what the municipality is trying to do, and I have some support for that as a fellow northerner. But I'm a little bit worried about setting a precedent here on something that we've just now seen as a committee and had the chance to read yesterday. I need some questions answered before we go further.

The Chair: I'll turn it over to counsel. I also would appreciate it, counsel, if you could—it's covering some ground that the applicants covered, but again, give us a bit of a sense of the history. One of the things I think is important for us all to acknowledge is the role that provincial government ministries have played in the development of the concept of this cottage development project as an economic development initiative for Elliot Lake. Again, to come back to Mr Brown's point, the question we're being asked is whether or not the municipality holds the development powers with respect to that. Secondly, the question Mr Bisson is asking: is this the right time in the process for that question to be answered by this committee? If you could illuminate us on some of the matters that should be considered with respect to those questions.

Mr Tom Melville: Sure. I'm Tom Melville. I'm counsel for the Ministry of Municipal Affairs and Housing.

In terms of the consultation process, I think the applicant has pretty much already outlined that the ministries were involved and have participated in a consultation process, and staff have made recommendations in that regard. I don't think I want to speak about that more specifically other than to say it has happened.

In terms of the appropriateness of the timing, I think that would be more of, again, a policy matter which is before the committee, and the committee is itself debating the merits of proceeding with this individual bill versus more general public legislation, and that's not the

legal issue, so I don't think as counsel that's appropriate for me to answer.

In terms of the question about the existing of development powers, I think that is appropriate for me to answer. Under the Housing Development Act now, municipalities do have the authority to develop residential development. I don't think it's a power that's used very much, but it is there. This bill really, I think, addresses other things more specifically, ie, allows the creation of the corporation that has been under discussion and allows the corporation to undertake certain activities which are mentioned in the bill, primarily promotional and development-related matters. Is that correct, Virginia?

Miss MacLean: It's my understanding that the Housing Development Act "housing" is housing, it's like a subsidized housing concept. That's what we're talking about. We're talking about community housing, housing that's a necessity in the community. This is a different concept. This is private-enterprise housing.

Mr Melville: I'm not disputing—

Miss MacLean: That was the problem with the act.

Mr Melville: But in terms of the question if there are housing development-related powers in municipal legislation, they do exist now, under the Housing Development Act.

Miss MacLean: Yes, whether it applies or not is the question.

The Chair: May I ask counsel what, if any, powers that currently reside within the Ministry of Natural Resources with respect to disposition of crown lands, ie, the lottery, the other processes that have been put in place either by policy, regulation or law, would be affected by this piece of legislation and/or ceded to the corporation that is being established?

Mr Melville: All I can really say on that is that it doesn't seem to address those issues one way or the other. That's not the subject matter of the bill. I wouldn't want to go further.

Miss MacLean: It's my understanding from discussions with the ministry—and I did ask them that question—that clearly they have the power to enter into contracts to sell it. It is there, apparently, and that's how the arrangement would be. It would be a contractual arrangement with the municipality.

I guess that's the answer with respect to Mr Bisson. They cannot enter into the contractual arrangement unless they have the power to do so, which is why they need the power now.

The Chair: Is it your understanding, Miss MacLean, that the Ministry of Natural Resources, in entering into that contract, would be in the position to place whatever requirements or restrictions on the process and the procedure that the municipality must follow with respect to disposition of those lands? In a sense, it would become a matter of negotiation between the municipality and the ministry and form its final determination in that contract.

Miss MacLean: That's correct.

Mr Melville: That's correct.

The Chair: Mrs Munro?

Mrs Munro: I appreciate the complexities, to some degree, of the issues you've raised. My question is perhaps too specific in the sense that you're not there yet, but I wanted to come to this issue you mentioned about the need to refer to these as residential, as opposed to cottage, as necessary in terms of the way in which the legislation is outlined. But it is the cottage aspect that I want to ask about.

In the table of contents you've provided us with, it refers to both summer and winter recreational activities. I wondered whether or not you are working with a definition of what "cottage resident" will mean. Clearly, when you look at the areas you have identified, I would suggest, just from this view, that accessibility would obviously be problematic in terms of year-round. But my concern really comes to that issue of how you define who is a cottager and who isn't.

Mr Farkouh: That's a good question, Mrs Munro. I think that will be determined by the individual who will be the owner and the resident of that property. Obviously they can use it as seasonal or they can use it year-round. Notwithstanding that we will not be responsible for any municipal services there, there is nothing to prevent them, in the winter, using their snow machine and spending time in it, and in the summer, launching their boat and going there. Really, they will be residents. I think it's semantics, really, whether it's a cottage or a residence. But I think, to be consistent with all the current regulations in terms of assessment, we don't have a category that's called "cottage rate"; it's called "residential rate." They address multiresidential. So even in there, they don't address all the in-betweens: the link homes, the semis and all that. It's either residential or multiresidential and then they go on to other categories.

We're not opposed to calling it whatever. We know what it's going to be intended for, and it's going to be intended for a different type of housing than we currently have to provide to our market.

Mrs Munro: My question comes from the idea that if it were to become appropriate for people to spend more time there than perhaps people imagined or envisaged when this was being laid out, there would be growing pressure. You suggest that the understanding is that there would not be municipal services and things like that. I just wondered how strongly you can enforce that if there is pressure from those people, once established.

1130

Miss MacLean: If I might assist, the planning process will determine what the definition is. In the zoning bylaw, it will clearly set out what it is.

You've raised a very interesting question. I think legal counsel here may be aware of a very recent decision of the Ontario courts involving residential property in which there was a question of whether or not the municipality that did not plow the road but allowed people to stay there year-round should be responsible and should be putting in a road. The court said, "No, you don't have an action against the municipality." So if the municipality has determined that these are seasonal in its zoning

bylaws and it provides no services, it's not legally under any obligation to provide those services.

Mrs Munro: I think that is the issue I really wanted to speak to. In terms of emergency services or anything like that, does the same rule apply?

Miss MacLean: When you buy something in a location, you know what's there when you buy it.

Mrs Munro: I understand that, but I just know there are also situations of public pressure, where there are a number of people and they put that pressure on.

The Chair: Could I intervene for a moment? With respect, sometimes—because of the materials we've had in front of us and the nature of the opposition, committee members are asking questions in this area. I think it's important for us to remember what the bill is in front of us, in that the issue of services down the road and/or cost and/or any actions is not a question that we're competent at this committee to determine or to respond to at this point in time, Mrs Munro, just to keep us back on track a bit.

Mrs Munro: I appreciate that. I just wanted to have the opportunity to raise this particular thing because I can see that it might be down the road. I appreciate that it is outside the scope of the immediate discussion.

The Chair: I do want to say to the applicants that the nature of this bill, because it is precedent-setting and because there is a policy question around the powers of municipalities and the establishment of a business corporation—and that's what's before us—touches on a lot of other areas in which members of provincial Parliament have a great interest. It has engendered a broader set of concerns than what the bill actually applies to, and I'm sure that must be a touch frustrating.

I also think the way in which the materials have been prepared and presented for committee, there perhaps could have been some clearer supporting documentation. A lot of us were left coming to this meeting today with a lot of unanswered questions.

Mr Bisson: A friendly suggestion?

The Chair: It may be that the process could have been improved that would have provided for a clearer deliberation on the bill than we've had thus far this morning.

The parliamentary assistant, and then Mr Bisson.

Mr Kells: The Chair and myself had some discussions. Obviously we followed the discussions around the table. I think sometimes the points get blurred in the sense of what we're debating, but the main point is that we need clarification, it would seem to me, in the area of the policy behind natural resources and the other ministries in relation to your request.

Even though our ministry supports your bill, I think it would probably be in the best interests of yourself, the government and the opposition parties to ask the ministries that have made comments on this bill to enlighten us as to exactly what the policy implications are, particularly when we're wandering into precedent-setting areas.

We hate to have to bring you all the way back down to the big smoke again to talk about this, but it's for our edification and it will be very helpful to us in similar bills that would probably follow yours or indeed in discussions that are going to come up in relation to the Municipal Act.

From the ministry's perspective, we would be happy to entertain a deferral based on providing the committee with more information, particularly with the policy implications.

Mr Bisson: I was going to make that type of motion, actually, because I think there are a couple of questions that we have to ask the people from the ministry's side, the interministerial committee. It would be good to get them before the committee, maybe next week, to answer some of the questions.

The other thing: there are two specific things I would want from the municipality or the provincial member or Mr Speck. One of the comments you made earlier on is that some of the detailed questions that were asked by the citizens opposed to this have not yet been responded to because you're trying to get the answers. I find myself a little bit trying to see the cart before the horse. I'd like to know a little bit more information on that. Were they viewed as dilatory questions or is it that legitimately there are questions that can't be answered? We need to get an idea of what those questions were and why it is they're not being responded to at this point. I'd like to have that next week, if possible.

The Chair: If I could just indicate, it wouldn't be next week; it would be the following week. Next week is constituency week.

Mr Bisson: That's fine. I'll be here alone.

The Chair: Before we get any further, there are a lot of hands going up. Let me try to facilitate this.

Mr Bisson: I was going to put the motion, actually.

I would move a motion that the committee meet in two weeks' time, at which point the interministerial committee would be brought before this standing committee in order to be able to answer questions of committee members; make sure that there's public notice in the community for those people who want to make comment; make sure that there's some sort of public notice made by our committee that they have an opportunity to yet again make comments here in two weeks' time, because it addresses the issue that they said they didn't have enough time to respond. At least this way it addresses that.

The Chair: The motion went into a speech there. I'm trying to get a handle on the motion that we will be debating and then voting on. If I could just take a moment to see if the Chair understands the member's motion, it would be that the vote on the bill that is before us, Bill Pr4, be deferred; that in two weeks' time the representatives of the interministerial team who have been working with the community be asked to come forward and present to the committee their view of any provincial policy implications of the application that is being made by the city of Elliot Lake.

Mr Bisson: And that notice be put in the local papers of Elliot Lake to allow citizens to come and comment if they wish to.

The Chair: That is the motion that is before us. Any debate on that motion?

Mr Hoy: I wonder if the parliamentary assistant would first of all state that he believes that the ministries would be here two weeks from today.

Mr Bisson: That's what they're paid for.

Mr Kells: I was going to say, unless we've lost all powers whatsoever, somebody had better be here.

Mr Hoy: I want to make a comment, because he put it in his original motion here. I thought Mr Speck said that the reason that some of these answers to the people concerned about this application in this bill were delayed was that you were waiting for correspondence with other ministries so that you can put together a total answer, not a perfect answer but to answer each and every specific question they were asking. I think that was a legitimate answer from Mr Speck, that for some of the more technically asked questions to allow the administration here to consult with the ministries. I think that was a perfectly legitimate answer, that they give full answers and that they aren't obliged to answer on question A one week and question B the following week and question C the next. I thought that answer was well stated.

The Chair: We appreciate you restating it, Mr Hoy, but it's not part of the motion that's before us.

Mr Hoy: No, but it appeared that others didn't hear it.

The Chair: It's not part of the motion that's before us, however, at this time. I'm just saying that to forestall Mr Speck from giving us a further answer to that. I think we did understand the point that he made.

On this motion, committee members, debate at this point in time?

Mrs Munro: I would certainly support a motion for deferral, but I'm wondering whether or not the detail that Mr Bisson has given is a bit too prescriptive at this point. I'm just wondering whether or not we shouldn't be leaving those details that are currently in the motion to be decided by subcommittee or some other process, as opposed to restricting this committee by the notion of the two weeks and by the composition of a meeting in two weeks.

Mr Bisson: Did I understand your question? Are you suggesting that we may be more than two weeks?

1140

Mrs Munro: First of all, I want to make it clear I'm supporting the motion for deferral. What I am suggesting, and it's more of a question than a statement, is whether or not the rest of your motion is too prescriptive—

Mr Bisson: About the interministerial committee?

Mrs Munro: Yes, and whether or not it should just be that we would leave those directions or suggestions to a subcommittee.

Mr Mazzilli: If I could comment on that, I find not that it's too restrictive, but to say that in two weeks we're going to bring all the stakeholders together—how many

residents may come? We may have to plan for four weeks of hearings here.

I support the motion of deferral. Perhaps we could continue with the advertisement in Elliot Lake, that people contact the clerk so that we have an idea of how many people want to be heard, or whether they want to be heard in correspondence, but defer to a time when we can meet and decide how many people want to make presentations.

Mr Bisson: That's not the intent of the motion. Just to be clear about what the motion is, I have specific questions of the interministerial committee, as you do, and I want to be able to pose those in two weeks' time. The parliamentary assistant says the buck stops with him; he's going to have them here. The only other part of the motion was we should let the citizens of Elliot Lake know, if they have comments or questions or want to appear, here's how you do it.

Mr Kells: We're really talking about our own ministries, the government's ministries, explaining to us exactly the policy implications of what we're asking you and the opposition parties to vote on.

The Chair: If I may add to that, it is not a new or different procedure that local interested parties are aware that the committee is dealing with it. They have the opportunity to send written representations and/or to appear. That's always an open option. I don't think anyone should concern themselves that we're actually inviting prolonged public hearings on this. We have some policy questions about the nature of the bill.

I think the planning objections from the community are issues that would be dealt with through the planning process under the various pieces of legislation that govern that. It is more the policy implications. That's what we're asking the ministry's interministerial committee to address, just so the applicants are clear. The policy implications of the application that's before us for the establishment of this business corporation by the town and the policy implications for this means of negotiated contractual determination on disposal of crown lands, or a decision on usage of crown lands: those are the things that I think come together for this committee with respect to this bill, not the actual planning decisions, which rest with a municipal process and provincial legislation, in which people have the ability to make representation on those concerns. I'm saying this for the record so that if anyone is interested from the Elliot Lake area, they'll know what the committee is going to be concerning itself with when we come back.

Is there any further comment or concern?

Mr Brown: That's helpful. I was a little concerned that where the committee was going on this was that the committee believed that somehow it was going to make natural resource/environmental planning decisions in the area. You've just restated the central fact that this bill is asking that the corporation of the municipality have the ability to develop.

The problem I thought I might be hearing is that certainly I could not be supportive, and I don't think any

member of the Legislature could be supportive, of actually making the planning decisions here, identifying the lakes, deciding the lots. That would be very dangerous. So I understand we are talking about the municipal issue and the disposition of crown land from the MNR situation. Those are the two issues we're dealing with.

The Chair: I think it's helpful to have that on the record. I think that's everybody's understanding around the table. We will not be entering into a process that invites concerns of a planning nature. There are other processes that deal with that.

Mr Bisson: It's a policy issue.

The Chair: It is a policy issue, a unique and interesting policy issue. I think that, unfortunately, the process of private bills and these applications doesn't easily allow for committee members to have sufficient information without asking for a corollary presentation from the ministry. So this is not an unusual procedure for us to undertake as a committee, where we ask, when significant policy questions are raised by an individual application, for the ministries to come forward and explain those implications to committee members so that as MPPs we feel we're fully informed and able to discharge our duties and then moving to give full consideration to the bill.

Before we go any further, I need to take a vote on the motion that's before us. Mr Mayor, it really is not appropriate for an applicant to enter into the discussion at that point in time. If there is a major consideration that you have about the motion, I think we can find a way through your sponsor, Mr Brown, if you would like to put something on the record.

Mr Brown: What exactly is the motion?

The Chair: The motion before us is that consideration of Bill Pr4 be deferred, that the committee is asking the interministerial team, or representatives of the ministries involved in the interministerial team, to come forward

and make a presentation to the committee about the provincial policy implications of your application. That's with respect to the powers of municipalities, the establishment of the business corporation, with issues of contractual arrangements on disposition of crown lands—those are the issues we would like to hear—and that we continue to notify the residents of Elliot Lake that this matter is before the committee and that we will resume, in two weeks, consideration of this.

Is everyone in complete understanding of what the motion is? Are committee members ready to vote on that, then?

All those in favour, please indicate. Those opposed? That's carried unanimously.

So that matter will be deferred. The committee does not meet next week, as it is constituency week and members will be back in their ridings. So the following Wednesday we will come back, and the first item of business will be discussion with the ministry on the policy matters. If there are any further presentations to be made by the applicant or any interested parties, we will hear those and then any further questions or comments and debate by the committee members. Barring any other determination by the committee, we would proceed to dispose of Bill Pr4 at that point in time.

Committee members, you'll be notified whether there are any other items of business that come before the committee for that day on the Monday when the House resumes.

Is there anything further before the committee at this point in time? Could I have a motion for adjournment, then, please?

Interjections.

The Chair: Mr Mazzilli, Mr Bisson, thank you.

All those in favour? Opposed? The committee is adjourned.

The committee adjourned at 1148.

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Mr Doug Galt (Northumberland PC)

Mrs Julia Munro (York North / -Nord PC)

Also taking part / Autres participants et participantes

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Wednesday 30 May 2001

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Mercredi 30 mai 2001

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 30 May 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 30 mai 2001

The committee met at 1002 in committee room 1.

CITY OF ELLIOT LAKE ACT, 2001

Consideration of Bill Pr4, An Act respecting the City of Elliot Lake.

The Chair (Ms Frances Lankin): I'd like to call the meeting to order. The committee is meeting today to resume consideration of Bill Pr4, An Act respecting the City of Elliot Lake. When this matter was before the committee last week, it was the committee's determination that we were not prepared to proceed to a vote at that time. We had a number of outstanding questions and we had asked if the joint ministries involved would be prepared to come before us today to answer committee questions. There were concerns about the nature of the precedent that might be involved in this bill and also a belief that there were extenuating circumstances with regard to the importance of economic diversification in the area of Elliot Lake. But we wanted to hear ministerial response on a number of those matters, as well as whether this was in accord with amendments being contemplated to the Municipal Act.

I understand there have been some discussions between the applicants and the ministry. I'm wondering if Ms MacLean and the applicants could come forward, if you have anything you would like to put before the committee before we ask ministry officials to speak.

Miss Virginia MacLean: Good morning, Madam Chair and members of the committee. We have had a very brief discussion this morning. We had a lot of telephone calls yesterday. As a result of those telephone calls, we would like the opportunity to have a full meeting with all the ministry staff present today. Therefore, we would ask if the committee would consider standing this matter down for a week so we can have those meetings, and if those meetings result in perhaps some changes to the legislation—we don't know—we would be contacting legislative counsel to ensure that those are brought back before the committee. We would like a week's adjournment, if that's agreeable to the committee.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): So moved.

The Chair: That's moved. Miss MacLean, just a question on that. Is it the intent of the parties, given that you're all in the room here now, to have that consultation today? Can we be assured that process will commence?

Miss MacLean: Yes, it is our intention. It's my understanding that a room has been set aside; the parliamentary assistant has made a room available to us.

The Chair: Are there any questions and or comments?

Mr Gilles Bisson (Timmins-James Bay): Is there anybody here from Elliot Lake who has come down?

The Chair: I'm glad you reminded me. It's one of the matters I should have asked. You will know that last week the committee did instruct the clerk's office to put an advertisement in the local newspaper to inform people of the continuation. We have received, for the committee's information, further representations from Mr Steve van Duin. We would ask committee members to make note of that and ensure you've had an opportunity to review that before we deal with this matter.

Are there any interested parties who have attended today from Elliot Lake to make representation? Is there anyone outside of ministry officials and the applicants in the room right now who wanted to be heard?

That being the case, is there any further debate or question on the motion? The motion, as I understand it, Mr Murdoch, is to stand down this item and resume consideration of the bill at next week's committee meeting.

Mr Bisson: Just a question on that. If there is going to be the meeting, there will be discussions. If there needs to be a change in the draft legislation, are we going to have enough time to do that in a week?

The Chair: Yes, and if not, there are ways to deal with these things.

Mr Bisson: That's fine. I was just curious. They were saying a week, and I was just wondering if they could do it.

The Chair: No further debate? All those in favour of the motion, please indicate. Those opposed? The motion is carried. We will resume next week for consideration of Bill Pr4. This meeting is adjourned.

The committee adjourned at 1006.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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**Assemblée législative
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Deuxième session, 37^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 6 June 2001

**Journal
des débats
(Hansard)**

Mercredi 6 juin 2001

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**



Chair: Frances Lankin
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 6 June 2001

The committee met at 1007 in committee room 1.

CITY OF ELLIOT LAKE ACT, 2001

Consideration of Bill Pr4, An Act respecting the City of Elliot Lake.

The Chair (Ms Frances Lankin): I call the meeting to order. The committee's apologies to the applicants and other participants who are here today for keeping you waiting.

The matter before the committee for consideration today is resumption of Bill Pr4, An Act respecting the City of Elliot Lake. I would like to ask the sponsor, MPP Mike Brown, and the representatives of the applicant, the Corporation of the City of Elliot Lake, to come forward, please.

Welcome. When we were here last week, you asked for one more week's adjournment so that you could have a meeting with the various ministries involved. I understand that meeting has taken place and that there have been some developments as a result of that meeting. If I may ask you once again to introduce yourselves for the record and if you would then please provide the information the committee needs so that we can continue our deliberations.

Mr Michael A. Brown (Algoma-Manitoulin): I'm Mike Brown with Troy Speck from the city of Elliot Lake and Virginia MacLean, who's acting on their behalf.

Miss Virginia MacLean: Madam Chair, I am speaking on behalf of my client, the city of Elliot Lake. We did have meetings last week and we had them in this room, which was kindly made available to us. As a result of that, we have a number of proposed amendments to the bill which we'd like to have the committee consider. I believe the representatives from the concerned ministries are also present here today to address the concerns of the committee.

The Chair: Would you like to give the committee a little bit of background about the deliberations with the ministries, what issues arose and what amendments and the purpose of the amendments that you are hoping will be moved, and then we will ask for representation from the parliamentary assistant and the ministries to address some of the committee's earlier broader policy concerns?

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 6 juin 2001

Miss MacLean: Although some of them are very much housekeeping amendments, one of the principal concerns was a concern expressed by the Ministry of Municipal Affairs and Housing, and it related to where the monies that were going to be used to purchase the property were coming from. They had concerns that tax dollars would be used to purchase the property and an amendment to the bill was proposed to limit the right of the municipality to use tax-paid dollars for the purchase of the property. That was the principal amendment.

The other ones that are contained in the package of materials before you are basically clarification housekeeping amendments, to tighten the bill. In particular, the ministry was concerned about the powers under section 7. It's just the wording has been tightened to make it clearer.

The financial risk issue, however, under subsection 2(5) was the principal concern that has been addressed.

The Chair: Mr Brown, as the sponsor, have you reviewed these amendments and are you comfortable with the—

Mr Brown: I haven't reviewed these amendments, but I was part of the conversation before the drafting, so I'm comfortable with what we're presenting here.

The Chair: Is there anything else, Ms MacLean, that you wanted to put before the committee before we ask for a ministerial—

Miss MacLean: No, that's all.

The Chair: Are there any other interested parties who have attended today from Elliot Lake, other than the ministry staff, who are here to present?

There is more. Just for the committee's information, then, there is a further submission from Mr Van Duin. Please just ensure that you've had a look at that before we continue our deliberations.

At this point, I'm going to ask Mr Kells if he could perhaps provide the committee with an overview of the joint ministry issues and then ask the representatives. While we're doing that, perhaps the applicants could step back and the representatives who are here from the Ministry of Natural Resources and the Ministry of Municipal Affairs could come forward so you're ready to answer any questions.

Mr Morley Kells (Etobicoke-Lakeshore): Nancy, would you, among others, join us at the table.

I believe the solicitor for Elliot Lake outlined the current state of affairs accurately. I would just like to review

where we've been. You will recall how the matter came up. Basically the two key issues are, and were, enabling this municipality to set up a corporation or a residential development commission to manage the development of land for residential purposes and enabling the municipality to act as a developer through the corporation.

After further consideration of the issue of limiting the potential precedent as proposed in this bill, the ministries and the applicant have now agreed on a number of amendments, as mentioned. The ambit of the bill is to be restricted to land bought from the crown. Other amendments address the issue of the municipal taxpayers' financial risk and clarify other matters. These motions will be explained at the appropriate time.

For the record, I would just like to read statements from two of the ministries, the first one being the Ministry of Northern Development and Mines. It reads:

"MNDM was given the opportunity to review the bill on three separate occasions and provided the Ministry of Municipal Affairs and Housing with our responses to the bill, MNDM has indicated that we recognize and are supportive of the important role that cottage lot development can play as an economic development initiative."

The letter is signed by Dan Newman, the minister.

Similarly, we have a statement from the Ministry of the Environment which reads as follows:

"Based on discussions with the Ministry of Municipal Affairs and Housing, it appears that the commission is a local board for the purposes of the Municipal Act. The Ministry of the Environment is satisfied that the Environmental Assessment Act will apply to the commission, based on the view that the commission is a local board and therefore a municipality under the Environmental Assessment Act.

"The current exemptions applicable to municipalities allow a municipality to undertake significant activities without being subject to the requirements of the Environmental Assessment Act and by requiring that a municipality follow an approved process only for specific aspects of a development project....

"In the Elliot Lake case there may be no significant aspects that are subject to any Environmental Assessment Act procedures; however, that can only be determined once the development commission has specific proposals for projects."

As mentioned, we have staff from the ministries here who will be pleased to answer any other questions.

The Chair: Could I ask the ministry staff to identify themselves for Hansard, please.

Ms Nancy Bardecki: I'm Nancy Bardecki from the Ministry of Municipal Affairs and Housing.

Mr Mike Belcher: I'm Mike Belcher from the Ministry of Natural Resources.

Mr Dick Hagman: My name is Dick Hagman from the Ministry of Natural Resources.

The Chair: Thank you very much for joining us today. I'm sure you've had an opportunity to review earlier Hansard and you have a sense of some of the concerns committee members raised at that time.

If I can just briefly try and encapsulate, I think the committee understood the very important role that this kind of cottage lot development could play in economic diversification for Elliot Lake and understood the unique circumstances historically and currently facing Elliot Lake.

I think the questions that arose were ones of the type of precedent that was being set by this legislation with respect to granting further powers to the municipalities and establishing business corporations, what that meant, how government viewed that. There was some representation that the ministry was in favour of moving in that direction in general. We may see down the road amendments to the Municipal Act of that nature.

There were also concerns about the precedent of disposition of crown lands and the mechanism of disposition of crown lands, how this would be consistent with current procedures, lottery mechanisms, various aspects like that. There may have been some other items that you have reviewed.

Would it be fair for me to ask you to comment on the nature of the bill, keeping those concerns in mind and perhaps giving the committee the benefit of the ministry's perspective on this bill? We'll start with municipal affairs.

Ms Bardecki: Thank you, Chair. Good morning.

An Act respecting the City of Elliot Lake does indeed establish some precedents with respect to municipal powers. However, ministry staff understand that additional protection provisions in the bill mean that the precedents address potential problems unique to the circumstances of Elliot Lake, or that some of the provisions could in effect act as a pilot project for changes to powers that are being considered as part of new municipal legislation. For these reasons, the ministry is neutral with respect to this bill; that is, we aren't objecting to it and we aren't supporting it. We are just relying on the committee to make its decisions.

I will just review some of our analysis for you. First of all, I'd like to say that a power similar to the power to be given to Elliot Lake through this bill to develop land for residential purposes already exists to some extent. Under the Housing Development Act, where there is an official plan with provisions or a policy statement relating to housing approved by the minister, among other things, a municipality may acquire, hold, survey and prepare and sell land for a housing project or housing purposes.

The bill allows the city to set up a corporation—I believe it's referred to as the commission—for the purposes of making profits through residential land development for vacation properties. Under present municipal legislation, municipalities do not have the authority to establish share capital corporations or undertake for-profit activities. Among the key reasons why such authority is not given are concerns that the corporations may act as a vehicle for bonusing, concerns that such corporations might undertake expenditures that would put taxpayers of the municipality at risk financially, concerns that such corporations might use tax dollars to

compete with taxpaying businesses in that municipality, and concerns that corporations aren't as accountable to the taxpayer as municipal councils should be. We think, though, that these concerns in this case are mitigated by other provisions in the bill and the specific circumstances for which the municipality of Elliot Lake wants to use these provisions.

With respect to the bonusing issue, the bill specifically establishes a trust account for the city money received from the sale of its residential development project lands and limits the money the city could use for economic development activity to the proceeds. Then, these proceed monies can only be used for things that the Municipal Act already allows municipalities to use them for for economic development purposes. At least, that's the way we read the bill. I hope that's the case.

With respect to financial risk, although not stated in the bill, we understand the municipality or the commission will not, for the purposes of this initiative, be expending a material amount of municipal resources or providing any guarantees. There are some specific prohibitions in the bill regarding guarantees—or at least in the proposed amendments. Further, the bill, as amended, doesn't permit any future tax or levy revenue to be used for the purposes of the commission.

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With respect to competition with the private sector, the proponents have assured the ministry that there aren't private sector developers out there wanting to develop this cottage property and, accordingly, there is no inappropriate competition with the private sector.

To address accountability issues, many of the provisions of municipal legislation which promote accountability apply to the commission, that is, this corporation that's set up for the development purposes. For example, the Municipal Conflict of Interest Act applies, and the commission's annual financial statements must be submitted to the municipal auditor. Council must approve the commission's budget. The commission's meetings may be open to the public, although the commission has significantly greater discretion to hold a closed meeting than council would have. The commission may close a meeting if, in its opinion, intimate financial or personal matters may be disclosed and the desirability of protecting against consequences of their public disclosure outweighs the desirability of holding the meeting in public. There's no ability to close a meeting dealing with the disposition of land in the relevant provision of the Municipal Act.

With respect to its projects to develop land in the city of Elliot Lake for residential purposes under the proposed bill, the city would be exempted from the disposition of land provisions in the Municipal Act, that is, sections 191 to 193 of the Municipal Act.

These provisions relate to the procedures that a municipality must follow when acquiring and disposing of land. They are intended to provide controls and accountability with respect to municipal dealings with the land in the normal course of their business. Although it's

not specifically restricted in the bill, the ministry understands that the land involved would not be land that the municipality acquires or disposes of in the normal course of its business. Further, in the amendments to the bill, it can only deal with land that is acquired from the crown. We think this provides a further protection.

With respect to planning matters, ministry staff don't believe that there's any precedent set. While the municipality may delegate to the commission, this development corporation, the preparation and/or submission of applications under the Planning Act, approval authority remains within the hands of the municipality or the ministry.

Provisions to allow municipalities to form corporations for certain specified purposes, subject to specified controls and accountability rules, are under ministry policy consideration for when new municipal legislation may be brought forward. I should say that cottage land development isn't envisaged as one of those specified purposes at this time; nonetheless it's possible that the experience with Elliot Lake's commission may be helpful in developing controls and accountability requirements that would be appropriate in the new legislation.

That's all municipal affairs would like to comment on right now.

Ms Lankin: Thank you very much. That was very, very helpful.

OK, Ministry of Natural Resources. Gentlemen?

Mr Hagman: Good morning, Madam Chair, members of the committee. My name is Dick Hagman, and I'm with the Ministry of Natural Resources. I work out of the Blind River area office, and I sit as a co-chair on the interministerial committee associated with the Elliot Lake waterfront development project. Other members of this committee include representatives of the Ministry of the Environment, the Ministry of Northern Development and Mines, the Ministry of Municipal Affairs and Housing, the Algoma Health Unit, Rio Algom and Denison Mines and the city of Elliot Lake.

The primary purpose of our committee is to guide the city of Elliot Lake through this project by identifying the planning and technical components, licensing, regulations, approvals and other interests each agency has in relation to their respective mandates.

It's a one-window committee to coordinate and review the process by which the city, as the proponent for this project, undertakes to implement cottaging development within the municipality. It also serves to identify efficiencies by which the city would benefit from having agencies at the table, working together. As an example, the Algoma Health Unit would bring to the committee its regulations and site-specific conditions for the approval of residential septic systems. At the same time, MNR identifies requirements under lake management planning in order to approve lakes for cottage development.

I understand the committee at its previous meeting on May 16 was interested in the process by which the city can acquire crown land for this project. The mechanism by which crown land can be made available for this

project is an exemption order that is made under the Environmental Assessment Act. It allows MNR to consider disposition of crown resources including crown land. It's commonly referred to as exemption order MNR 26/7. Before MNR can consider disposition of crown land, there are a number of steps which must be followed, including a screening process, public notification and input, to determine a level of significance a disposition may have on the environment.

The screening process considerations which the city as the proponent must satisfy include:

Does this proposed undertaking conflict with land use or resource management plans, other MNR policy statements, criteria and guidelines? Does it affect any unique, rare endangered species, habitat or physical features of the environment? Does it adversely affect fish populations or habitat, affect adjacent persons or property or persons or property not associated with the undertaking? Does it commit a significant amount of non-renewable resources? Does it conflict with other uses or potential uses of a significant natural resource? Does it result in a measurable and significant detrimental effect on air or water quality or on ambient noise levels for adjacent areas? Would it set a precedent or involve new technologies which would have a significant environmental effect now or in the future? Would it be a precondition to the implementation of another undertaking? Would it block views or adversely affect human health? Would it substantially change the social or economic structure of the community? What are the impacts upon first nations values? Would it substantially affect access patterns?

Those are the kinds of considerations and the screening process that the city is undertaking in order to have MNR consider a disposition of crown land. The exemption order also allows MNR to forward any proposed dispositions to the Ministry of the Environment for their consideration of whether or not the project should be designated under the Environmental Assessment Act. If in the opinion of the district manager of the Ministry of Natural Resources, a project may have significant adverse effects on the environment, it is the Ministry of the Environment's responsibility to decide whether the proposal would be referred to cabinet for possible designation under the act.

At this point in the project the city is working to address the screening criteria and public input received to date in order to allow the district manager to consider the environmental significance of this project and grant a disposition of crown land for the purposes of cottage development within the municipality of Elliot Lake or refer it to the Ministry of the Environment for further review.

Mike Belcher, the manager of the strategic lands initiative for the Ministry of Natural Resources will provide the committee with an update on the discussions to date with the city on the mechanisms by which crown land could be transferred to the city for this cottage development. I'd be happy to answer any questions the committee may have at this time.

The Chair: Perhaps we'll hear from Mr Belcher, and we might return for questions to all of you.

Mr Belcher: Good morning, Madam Chair and members of the committee. I've been asked to present to you the background with respect to the disposition of crown land to facilitate cottage lot development in the Elliot Lake vicinity. Generally speaking, the matter of disposition resides with the local district office and those dispositions must be approved by the local district manager. I was asked by the district to help facilitate this request for crown land, given the unique circumstances surrounding the possible sale of land to a municipality for development purposes.

The ministry's goal in managing crown land is to contribute to the environmental, social and economic wellbeing of Ontario through the sustainable development of natural resources. Achieving sustainable development means that decisions about development must be based upon careful consideration of all factors. It assumes a comprehensive assessment of environmental, social and economic effects, their interrelationship and relevance from a local, regional, national and even international perspective.

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Public land as a resource unto itself is a non-renewable resource. MNR will favourably consider disposition of public land to accommodate opportunities for social and economic development that are compatible with environmental and ecological integrity. That is why the role of the interministry committee on the review under our exemption order 26/7, which Dick Hagman just presented to you, is so critical in any final decision-making.

Economic growth and renewal through development and diversification is and has been an Ontario government objective for some time. The disposition of public land to facilitate development opportunities can stimulate investment, job creation and tax and non-tax revenue. The availability of public land can also be important to the social development of communities to accommodate infrastructure elements.

The crown, representing all the people of Ontario, should receive fair compensation when rights to public lands are disposed of. Revenue from the disposition of crown land go to the province's consolidated revenue fund and are used to provide essential public services such as health and education.

Response to clients' requests should be handled as competently as possible, having regard to the limited human resources available. Given our limited resources in some field offices and given my extensive background in land management, I was asked by the district to provide this assistance in this particular situation. This assistance has included meeting with town representatives three times over the past four years to discuss the transfer of crown land, should all other approvals and necessary requirements be met. These discussions are still ongoing and focus on the principle that the crown shall receive fair market value.

To determine this value and have a monetary value which the city could use to project a cost-benefit analysis, an appraisal was conducted at the request of MNR by a fee appraiser. The fee appraiser, Mr Hal Love of Appraisals North Realty in Sudbury, was hired. The purpose of the appraisal was to estimate current market value as if vacant and unimproved. The function of the report was to allow us to further explore transfer options with the municipality. I am not aware of any feasibility or demand study which would identify the demand in the marketplace or the respective consumers' expectancy of value levels.

This committee should also understand that the Ministry of Natural Resources is not in the development business and therefore future development risks and costs are the responsibility of the purchaser. Furthermore, in many communities across northern Ontario, expansion will usually encroach on to public lands. Based on the foregoing, it is the position of the ministry that any land sold would be on a foot-front basis, at the value as determined by the appraiser.

Madam Chair, this is my report and the extent of my involvement in this matter.

The Chair: Thank you very much, Mr Belcher.

Tom Melville is counsel with municipal affairs and housing and advises the parliamentary assistant in our committee. I'm just going to ask him for his review of the submission of the ministry and to place any comment he wishes on the record at this time.

Mr Tom Melville: I'm not being asked a specific question, but, if I may say so, you were asking about the new provisions in the Municipal Act that were related to the bonusing effect. Is that correct?

The Chair: In particular, the representations from the ministry that the provisions in this, the protection of bonusing, the protection of any disposition, being in accordance with other aspects of the Municipal Act. I think that was the statement that was made. There was I think a query to you that the ministry agrees with that. I just want to ensure that.

Mr Melville: Yes.

Ms Bardecki: I just wanted to make sure that I had interpreted the amendments to the bill that is proposed correctly, and if I didn't, please advise me and the committee.

Mr Melville: I don't disagree with anything that Nancy said. I'll just add a little elaboration on the potential bonusing aspects of the bill. Section 7 of the bill allows the proceeds of the commission, that's the new corporation, to be used in accordance with existing provisions in the Municipal Act. There is an amendment that addresses that.

To summarize, one provision refers to section 113, which is an existing provision in the Municipal Act allowing municipalities to make grants subject to the bonusing rules. The other two refer to existing corporations and the powers that municipalities have. They can set up two kinds of corporations that are referred to under the Municipal Act. One is called a community

development corporation, and there are certain limited powers that municipalities have to give funds to those corporations now. The provision that's proposed for the committee with the motion would allow the commission's proceeds to be transferred to that type of corporation and consistent with the existing rules.

The Chair: Thank you very much. Committee members, are there questions of either the applicants or the ministry? So let's begin with the ministries that are here at this point.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): One of the questions, and you might have answered it, is I suppose from the Ministry of the Environment's point of view. There was some concern about the sulphur loading I believe, if I call it correctly. I'm sure we've looked at that. Any comments on that, any one of you?

Mr Hagman: Sulphur loading?

Mr Gill: Yes.

Mr Hagman: It may have been in reference to phosphorous, and one of the requirements in the lake management planning process is to look at the water quality and a model commonly referred to as the Dillon's model. It uses spring phosphorous levels that are measured to determine development capacity on lakes without substantially affecting water quality.

Mr Gill: How many lakes were originally looked at, and then what have you narrowed down to? Anybody can answer that.

Mr Hagman: Initially the city looked at—I can't recall the exact total; I think it was in the neighbourhood of approximately 70 lakes, both within the municipality and outside the municipality in unorganized area. From that initial list, it's been reduced and is now down to 11 lakes that are being proposed for waterfront development.

Mr Gill: And this will be limited to only 11 lakes, or is it giving blanket approval for future development as well? Anyone can answer that.

Mr Hagman: Certainly, if the city is interested in other lakes, they would need to undertake a similar process on new lakes, lake management planning and public consultation, if they wish to consider additional waterfront development down the road.

Mr Gill: Would they have to then perhaps come in with a new bill, or are we saying we're giving them all the authority and then they can just go ahead and increase their usage?

Mr Hagman: I don't see that process tied directly to the bill. The bill relates to powers the municipality is requesting or seeking to have a commission set up to develop these waterfront properties. I suspect that if the bill passes and the commission is set up in the future, if additional lakes or water bodies are considered for waterfront development, the commission could undertake that.

Mr Gill: These monies, are they going to be used strictly for economic development? Are we making an amendment to that?

The Chair: Perhaps the parliamentary assistant may want to just touch on the nature of that amendment, because it was an issue that I think has been raised and a concern that perhaps is satisfied by the proposed amendment.

Mr Kells: I can give a general answer to the honourable member. At the meeting last week, where many of these concerns you're re-enunciating were discussed, the ministries and the representatives from the city and legal counsel met in here after our meeting and covered pretty well all those areas. The amendments that we hope the government member will move are the amendments that were agreed upon and that work to solve any of the concerns that had been expressed at the committee level previously.

The Chair: Ms Bardecki, I understand from your representation today that the proceeds of disposition of any lands by the city of Elliot Lake would be used only for economic development purposes and only those purposes consistent with the Municipal Act. Is that correct?

Ms Bardecki: Certainly the proceeds of these projects, after the city's costs are covered, may be used for economic development purposes and they must be used in a manner that's consistent with the provisions in the Municipal Act as they relates to bonusing and other issues. But I'm not entirely sure that the municipality is restricted from using the proceeds for other purposes allowed within the Municipal Act, although Mr Melville might be able to add to that.

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The Chair: Mr Melville, could you answer that question for us?

Mr Melville: I would say the proceeds are not limited to economic development purposes. Under section 113 of the Municipal Act, municipalities can make grants for any purpose that's in the interests of the municipality, subject to the bonusing provisions, as I mentioned in my previous answer.

The Chair: Does that answer your question, Mr Gill? Is there anything further that you had at this time? OK. Other committee members, any questions for the ministry?

If I may, Mr Hagman and Mr Belcher, the disposition of crown lands: there's two stages here. I think you've described the process by which the crown would transfer lands to the corporation that's being established by the city of Elliot Lake. Is there any condition that you're placing on them in terms of how they make those cottage lots available to the public? I think one of the questions I heard in the previous week was the fairness in terms of the general public's access to crown land, the lottery system that is often used. What discussions have taken place and what is your opinion about the general public's access to these crown lands?

Mr Belcher: When the Ministry of Natural Resources sells lands, it can sell lands through public offerings, direct offerings or restricted offerings.

The Chair: Would you just briefly describe the differences among those for us?

Mr Belcher: Sure, and just to back up one step further, section 2 of the Public Lands Act gives the Minister of Natural Resources that statutory authority to make those sales.

Public offerings can be on a first-come, first-served basis. It can be a request for proposals, an RFP, put out. It can be a public tender. It can be a public auction, a public draw or it could be listed. Most recently we've moved into the new world of listing with private real estate companies for sales of land.

Each method that is determined is weighted by the interest in the area, the demand and the supply. In this particular instance—and it's not uncommon for the Ministry of Natural Resources to sell land to municipalities; it's quite common—there will be a direct sale to the municipality at fair market value. Based on the fair market value principle, then, that municipality would gain title through patent—through a deed, a transfer—from the Ministry of Natural Resources for a block of land. That is how we envision this. At that time, then, the land may be developed in accordance with the new amendments being made in this bill and any other provisions of the Planning Act. So how they determine to market it will be their responsibility. But what the Ministry of Natural Resources is doing is making land available to that municipality for economic purposes at market value. Given the market value, we can't very well—

The Chair: Place conditions.

Mr Belcher: Yes. They've paid for that.

The Chair: Mr Belcher, the ministry of course has for a number of years been just very tight. All of your department's strategic plans initiative sort of speaks to it. For a number of years, then, looking at the potential for strategic disposition of crown lands and for economic development impact through cottage development and others, does this project fit in with a broader program or approach within the ministry? Is this an anomaly in any way? Is it specially unique to Elliot Lake, beyond what we already know? Could you just place it in the—

Mr Belcher: It's not an anomaly in our sales to municipalities. Its uniqueness is in the way the land is to be treated after the sale by the municipality as the developer. It's not uncommon in northern Ontario that municipalities look outside of their existing boundary area for economic opportunities and, as I said before, sales to municipalities do occur.

In northwestern Ontario there is a group, the Northern Ontario Municipal Association, that is also looking at opportunities for economic expansion through the selling of land by them. We have worked with them in the past, going through the same process as we are with the city of Elliot Lake, maintaining the principles of disposition of crown land with respect to the environmental assessment, our obligations, and the principles of fair market value. So it is not an anomaly, it is quite common, and there are other municipal groups looking at the same sort of arrangements.

The Chair: Parliamentary Assistant, any further comments?

Mr Kells: No. I just hope that the government would make some amendments.

Mr R. Gary Stewart (Peterborough): Could I just ask a question? I'm not on the committee but my interest is kind of piqued here. Can I ask just how much land is involved with this?

Mr Belcher: Like Mr Hagman said, we're screening out various lakes at this time, so it's uncertain exactly the area that is to be defined in the disposition, which is what brought us back to a foot-front value. Therefore, whatever area would be required for a development opportunity, we can apply a foot-front basis, and that's what the appraiser did. It's premature for me to say anything around amount of area that is to be disposed of, but whatever it is that value would be applied.

Mr Stewart: With public lands like this, a deal could be made with the municipality without putting any of this land up for tender? What happens to the rest of the people who might decide, "I want a piece of this property," and it's crown property? It's not required to be put up as a tender?

Mr Belcher: The ministry can offer direct offerings to a purchaser. It does not have to go through an RFP process or a tender every time it wants to sell land. In this case a municipal partner with the province has come to us for lands, and as long as the principles of market value and environmental screening are done, then that is passed on to the municipality to provide that opportunity.

Mr Stewart: I guess the reason being was the fact that it could be a considerable amount of land. That was my concern.

Mr Belcher: We're really not sure at this time just how many lakes are going to be developed. We have some ranges. We think the municipality is looking at 300 to 400 lots. I wouldn't envision that they would want to take it all on at once, but that's their choice, if all other legal requirements are followed.

The Chair: If I may, Mr Stewart—

Mr Stewart: I'm sorry.

The Chair: No, I don't want to stop your interest at all. I just want to refocus again and indicate that the bill itself deals with the powers of the municipality to set up this corporation to do this; it doesn't deal with the actual extent of the project or the nature of the project. We have been assured in terms of the conditions of the Ministry of the Environment and the Ministry of Natural Resources that will be met, but once the powers are established, those powers will be there. The extent of the property over a long period of time is something the committee can't know at this point. It may be relevant to the consideration of whether to approve the bill or not, but I just wanted to clarify that.

Mr Stewart: No problem. I just hate to vote on something that I don't know anything about.

The Chair: Absolutely, yes.

Anything further? Before I ask committee members for debate and/or if they are ready to vote, does the sponsor or the applicant have any further comments they wish to place on the record? I see noes. Just to assure

myself one more time, there are no other interested parties who are present today? Seeing none, committee members, is there debate on this bill?

Mr Gill: Madam Chair, if I may, I have some amendments. I'm not sure at what stage those amendments are to be brought forward.

The Chair: I appreciate that. Once I ascertain whether or not there is any further debate, we will move to voting. As we come to each section, it would be appropriate if you have an amendment to place on the record to do so at that time.

Mr Murdoch, we're about to proceed to debate and vote. Would you like to debate this bill at all?

1050

Mr Murdoch: I have no debate. I am happy.

The Chair: We actually know you are very happy today with respect to this bill. We just want to assure your satisfaction.

Mr Murdoch: The problem will be, who's going to tell me how to vote?

Mr Kells: We wouldn't suggest you follow the leader.

The Chair: Actually, I've just been informed by the clerk that your substitution sheet has you substituted on at 11 o'clock, so for any of the voting that is conducted before 11 o'clock, you in fact have no vote at all. So allow me to tell you how to vote at this point in time.

Mr Ted Arnott (Waterloo-Wellington): Madam Chair, I'm his proxy, so don't worry.

The Chair: OK.

If we can move to dispose of the matter before us, I thank the representatives of the ministry. I want to indicate that I think your presentation was extraordinarily helpful. If I may, on a procedural note I just mention that this is a unique bill for this committee and it was important for our questions to be answered. In the future we might give consideration, once that information is ready, to our committee asking for the papers that you presented today in advance so that committee members would have had a chance to read them and then perhaps we could have gone to questions. But I think we have in fact explored all the issues that committee has raised over the last couple of weeks and I thank you for that.

Are committee members ready to vote? Before us we have Bill Pr4, An Act respecting the city of Elliot Lake. It has been sponsored by Mr Brown, MPP. Is there any debate or comment on section 1?

Mr Gill: I have an amendment to section 1.

I move that section 1 of the bill be amended by adding the following subsection:

"Same

"(2) Any reference in this act to land acquired from the province of Ontario shall be read as a reference to land or an interest in land acquired from the province of Ontario by purchase, lease or otherwise."

The Chair: Is there any debate on that amendment? Seeing none, all those in favour of the amendment, please indicate. Those opposed? Mr Arnott, was that—

Mr Arnott: No, I was with Raminder.

The Chair: You understand why I had to check.

Interjection: You should check.

The Chair: Of course. That amendment is carried. Anything further with respect to section 1? Seeing none and seeing no debate, are you ready to vote? Shall section 1, as amended, carry? All those in favour, please indicate. It's unanimous. That's carried.

We'll deal with section 2. Any debate or amendments?

Mr Gill: I have three amendments that I can read into the record all at the same time, if you like.

The Chair: One at a time, please.

Mr Gill: I move that subsection 2(1) of the bill be struck out and the following substituted:

"Corporation may develop crown land for residential purposes

"(1) The council may by bylaw undertake one or more projects in the city of Elliot Lake to develop for residential purposes land acquired from the province of Ontario."

The Chair: Any questions or debate with respect to that amendment? Are you ready to vote? All those in favour of the amendment, please indicate. It is carried unanimously. Any further debate or amendment of section 2?

Mr Gill: Madam Chair, a further amendment.

I move that section 2 of the bill be amended by adding the following subsection:

"Corporation shall not provide guarantees

"(5) Except as permitted by section 7, the corporation shall not provide a guarantee to any person in exercising any of its powers under this act."

The Chair: Any debate? Seeing none, all those in favour of the amendment, please indicate. That's carried.

Any further debate or amendment to section 2?

Mr Gill: I move that section 2 of the bill be amended by adding the following subsection:

"Restriction re use of municipal taxes etc

"(6) The corporation shall not use any money collected after this act receives royal assent as municipal taxes, rates or levies for any activity authorized by this act or for any purposes of this act."

The Chair: Any debate? Seeing none, all those in favour, please indicate. Carried.

Any further debate or amendment to section 2?

Seeing none, shall section 2, as amended, carry?

Those in favour, please indicate. Carried.

Is there any debate or amendment to section 3?

Mr Gill: I move that subsection 3(4) of the bill be amended by striking out "The object of the commission is to manage the development of land for residential purposes as the corporation's agent" at the beginning and substituting "The object of the commission is to manage, as the corporation's agent, the development for residential purposes of land acquired from the province of Ontario."

The Chair: Is there any debate with respect to this amendment?

All those in favour, please indicate. Carried.

Any further debate or amendment on section 3?

Shall section 3, as amended, carry?

Those in favour, please indicate. Carried.

I'm going to take the next group because I believe there are no amendments being put forward for sections 4, 5 or 6. Is that correct?

Mr Gill: Correct.

The Chair: That being correct, is there any debate with respect to sections 4, 5 or 6?

Shall sections 4, 5 and 6 carry?

Those in favour, please indicate. Carried.

Any debate or amendment to section 7?

Mr Gill: I move that subsection 7(3) of the Bill be struck out and the following substituted:

"Restrictions on uses for net proceeds

"(3) The money in the special account may be used solely for the following purposes:

"1. To provide financial or other assistance to community economic development corporations incorporated under section 112.1 of the Municipal Act.

"2. To provide financial or other assistance to community development corporations incorporated under section 112.2 of the Municipal Act.

"3. To make grants under section 113 of the Municipal Act."

The Chair: Any comments or debate?

All those in favour, please indicate. Carried.

Is there any further debate or amendment of section 7?

Seeing none, all those in favour of section 7, as amended, please indicate. Carried.

Are there any further amendments that will be offered to this bill?

Shall sections 8 and 9 carry?

All those in favour, please indicate. Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

I appreciate the committee's efficiency in dealing with that and the work the ministries put into bringing information forward.

Our apologies to the applicants for how this got drawn out, but I think it's a better process and a much better understanding of the bill. We wish you luck in that exercise you're about to undertake.

Is there any other business before the committee at this point in time? Seeing none, the committee stands adjourned.

The committee adjourned at 1100.

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Mr Morley Kells (Etobicoke-Lakeshore PC)

Mr R. Gary Stewart (Peterborough PC)

Also taking part / Autres participants et participantes

Ms Nancy Bardecki, director, Ministry of Municipal Affairs and Housing

Mr Mike Belcher, manager, Ministry of Natural Resources

Mr Dick Hagman, area supervisor, Ministry of Natural Resources

Mr Tom Melville, counsel, Ministry of Municipal Affairs and Housing

Clerk / Greffier

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Official Report of Debates (Hansard)

Wednesday 20 June 2001

Journal des débats (Hansard)

Mercredi 20 juin 2001

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Chair: Frances Lankin
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 20 June 2001

Mercredi 20 juin 2001

*The committee met at 1003 in committee room 1.*NIAGARA CENTRAL AIRPORT
COMMISSION ACT, 2001

Consideration of Bill Pr11, An Act to amend The Welland-Port Colborne Airport Act, 1976.

The Acting Chair (Mr Gilles Bisson): All right, if everybody can get ready. Our Chair is caught up in a meeting and will be here soon. As soon as she comes she'll be taking her place. We have all of the various things, so we want to call the meeting to order. I would like to first call on Peter Kormos, who is going to be presenting for The Welland-Port Colborne Airport Act, 1976.

Mr Peter Kormos (Niagara Centre): With me is Bruce Smith, a lawyer from the firm of Brooks, Bielby and Smith, which is the law firm which represents and acts for, and has for a considerable number of years, the Welland-Port Colborne Airport Commission. The commission—and Mr Smith can perhaps outline this in further detail—has representatives from several of the communities in southern Niagara that are serviced by this Welland-Port Colborne Airport, which is, again, a historic airport in the southern half of Niagara. It services not only hobby flyers, but also the air cadet league is based there. They serve the airport well and the airport serves them well. Flying lessons are conducted out of the airport. It also accommodates small-plane travellers to and from local industry: John Deere, Atlas Steel, Inco etc. It is a very well used and well-appreciated facility. I will let Mr Smith—Mr Smith goes to Queen's Park—explain the rationale for the bill.

The Acting Chair: Mr Smith, first of all, welcome. I'm a former air cadet, a former civilian instructor and a pilot, so I'm listening.

Mr Bruce Smith: Thank you, Mr Chair, and thank you, Peter. Peter has basically explained a little bit about the airport. The airport has been there for 60 years. The purpose of this act today is simply to amend the name of both the airport and the commission. Just a very brief reason for that is that right now, as you can see, it's called the Welland-Port Colborne Airport. It's kind of strange. It's called Welland-Port Colborne when it's actually located in the town of Pelham, and it's served by four municipalities that sponsor the airport, basically

Pelham, Welland, Wainfleet and Port Colborne. One of the reasons for the change was to give more recognition to the fact that there are four municipalities and we are more centrally located in the Niagara area. That was the impetus to do that. Also, we're looking at different things to try to get more expansion to bring more airport traffic to the area. We thought a new name would give it sort of the feeling that it was more of a Niagara airport than just simply the Welland-Port Colborne Airport service. That was the reason for the change.

There was an agreement passed by all four municipalities that was actually ratified back on February 13 of this year, when the last municipality signed it. All four, by their bylaws and through the proper course, have approved the change of the name of both the commission and the act. This is just the last step in that process, because there was an old Welland-Port Colborne act back in 1976.

The Acting Chair: Are there any questions from members of the committee? No questions?

Mr Bill Murdoch (Bruce-Grey-Owen Sound): Do you want to move it?

The Acting Chair: Yes, just one thing before I get to that. Are there any interested parties present who want to speak to the bill? No interested parties? Parliamentary assistant, are there any comments from the ministry?

Mr Morley Kells (Etobicoke-Lakeshore): The only comments are very positive. The Ministry of Municipal Affairs has no objection and the Ministry of Consumer and Business Services says the name does not conflict with other names in the database. So there are no objections.

The Acting Chair: There are no objections. Any other questions from anybody? At this point, then, if the clerk can help me out, we're going to call the question. Does anybody want to call the question?

Mr Murdoch: I move it.

The Acting Chair: Moved by Mr Murdoch, seconded by Mrs Boyer. We have to go through this first, right? If you're wondering, I'm not the regular Chair, so I'm having a little bit of help here from our good clerk. There are a number of amendments to that, if we can go through them.

Is there any amendment to section 1? Seeing none, all in favour of section 1? Those opposed? Carried.

Any amendments to section 2? All those in favour?
All those opposed? Carried.

Any amendments to section 3? All those in favour?
All those opposed? Again, carried.

Any amendments to section 4? All those in favour?
All those opposed? Carried again.

Shall the preamble be accepted? Carried.

Shall the title be carried? Agreed.

Shall the bill be carried? Agreed.

Shall I report the bill to the House? Agreed.

Congratulations. You have a bill. Thank you very much, Mr Kormos and Mr Smith.

I'm informed by the clerk that Ms Tina Molinari is in another committee right now. If somebody can go and get her from the caucus—

Interjection.

The Acting Chair: She just went? I'll just adjourn the committee for a few minutes until she gets back here. In the meantime, if both Robert and Patricia Pilon wish to come to the front and get ready, we'll get started as soon as Ms Molinari is here. So we stand adjourned for a couple of minutes.

The committee recessed from 1009 to 1011.

1150982 ONTARIO INC. ACT, 2001

Consideration of Bill Pr14, An Act to revive 1150982 Ontario Inc.

The Acting Chair: I'd like to call forward Mr Joe Spina, MPP, and Ruth Harniman: An Act to revive 1150982 Ontario Inc. Mr Spina, if you have a few words?

Mr Joseph Spina (Brampton Centre): Thank you, Chair. I'm going to let Ruth speak on behalf of her company. The ministry has all of the information as to why we asked for this company to be revived. She'll explain, and from our ministry perspective clearly there's not an objection. So I'll let Ms Harniman do it.

Ms Ruth Harniman: Good morning. I have an active, ongoing business in the Brampton area. This came about due to a mistake in filing one of the forms and I was not notified properly that I had misfiled it. I didn't know that I needed to revive the company until I became involved as a plaintiff in a lawsuit, when it was discovered that the company had been dissolved. I am an ongoing business, I have employees, I pay my taxes, and I wish to continue, and I'm growing. So I really would like to have my charter back.

The Acting Chair: Any other comments?

Mr Spina: Only, Chair, that for obvious reasons we would endorse the committee to allow her to properly re-charter her company since she has an ongoing business and clearly there is no legitimate reason why the company should have been dissolved.

The Acting Chair: Are there any other interested parties wishing to make a presentation on this? Seeing none, if the parliamentary assistant has any comments?

Mr Kells: Thank you, Chair. The Ministry of Municipal Affairs has reviewed the file and we have no

objections. The Ministry of Finance has reviewed it and has no objections. The Ministry of Consumer and Business Services doesn't have any objections; it simply says here, "If the corporation files proper forms showing directors, the ministry has no objection to the proposed act."

The Acting Chair: OK. Any questions from the committee members?

Mr Spina: Chair, Ms Harniman has a letter from her lawyer indicating to meet the requirements of consumer and business services.

The Acting Chair: No other questions? Seeing there are no other questions, I'd like to call the question.

Shall section 1 of the bill carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I'd like to thank you very much. The next process: obviously, it's got to go to the House for a final reading. Thank you very much.

Mr Spina: Thank you, ladies and gentlemen.

1252563 ONTARIO LIMITED ACT, 2001

Consideration of Bill Pr16, An Act to revive 1252563 Ontario Limited.

The Vice-Chair (Mr Garfield Dunlop): Committee, we'll now do Bill Pr16, An Act to revive 1252563 Ontario Limited. The sponsor is Mr Marchese, and of course Mr Bisson is looking after it.

Mr Gilles Bisson (Timmins-James Bay): Thank you very much, Mr Vice-Chair. It seems not long ago that I was there. I would first of all like to say on behalf of Mr Marchese that he's not able to be here this morning, as you can see. He is now in another committee debating a bill that I believe is going clause-by-clause. So he could not be here with us. I'm here with Mr Baker, who is going to explain the act to revive 1252563 Ontario Limited. Mr Baker, you have the floor.

Mr Gordon Baker: Thank you, Mr Vice-Chairman. Thank you, Mr Bisson. This company was dissolved for failure to file a correct form. They had filed a form through their previous law firm and it was incorrectly filed. They were notified. They attempted to correct the mistake and unfortunately didn't understand what they were trying to correct, and the company was struck out.

It's an ongoing business. It's known as BakeWorks, at 326 Bloor Street. Some people may know where it is. They have employees and they have been carrying on business ever since and they'd like to have the company revived so they can properly carry on business.

I've also filed an undertaking with the ministry to make sure the appropriate forms are filed as soon as the bill is revived.

The Vice-Chair: Are there any other interested parties to make comment on this? None? Parliamentary assistant, do you have any comments on it?

Mr Kells: The only comment I have is that the bill was circulated to the Ministry of Finance, which finds the corporation is in good standing, so they have no objections. The Ministry of Consumer and Business Services has reviewed the bill and their comment is very basic: "If the corporation files proper forms showing directors, the ministry has no objection to the proposed act." I assume that's what you're going to do?

Mr Baker: Yes. I've undertaken to do that.

Mr Kells: There are no objections, Chair.

The Vice-Chair: Do any of the committee members have any comments on this? Are we ready to vote?

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): You said this was a bakery?

Mr Baker: It's the BakeWorks on Bloor.

The Vice-Chair: Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 of the bill carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

1020

1072550 ONTARIO LIMITED ACT, 2001

Consideration of Bill Pr8, An Act to revive 1072550 Ontario Limited.

The Vice-Chair: We now have Pr8, An Act to revive 1072550 Ontario Limited. The sponsor is Mr Smitherman, MPP, and the applicant is here as well. Good morning, Mr Smitherman.

Mr George Smitherman (Toronto Centre-Rosedale): Good morning Mr Chair, members of the committee. It's my pleasure to introduce a constituent of mine, Alia Qaisi. The matter before us, Pr8, is a reasonably simple matter. It is a request to revive an Ontario corporation that was inadvertently allowed to dissolve. My constituent would be happy to speak to it.

The Vice-Chair: Can the applicant make any comments on it?

Ms Alia Qaisi: Yes. Actually, the form that changes the directors, I left the existing information blank by mistake. We didn't receive notices. The ministry sent notices, but the notices never reached us. I have copies of returned envelopes that the ministry gave me, so they never reached us. We didn't know that the corporation was dissolved until it was time to file taxes and we discovered from the GST office that it wasn't.

Mr Bisson: I just have a question for the parliamentary assistant. It's, what, three bills like this. Does this happen a lot, where the ministry fails to give notice, or the notice doesn't get to the applicants? I believe this is the third one today. Is something going on?

Mr Kells: I can't comment to this because this is my first time around. But I agree, this is the third one today.

I'm just reading the information here myself. I don't know whether this is a regular occurrence or whether there's a reason each time. I'm not sure.

Mr Bisson: I wonder if I could ask the applicant if you know in your research—

Ms Qaisi: I want to comment, actually. I think they sent notices but the notices never reached us. The envelopes were returned. I have photocopies of the returned envelopes.

Mr Bisson: I'm not concerned about that. You're the third person who has had to come here and have this done because, for whatever reason, it seems the information that people were sent didn't get there. I'm wondering, in your preparing for this, if you know of others. Is there a trend happening here or something?

Ms Qaisi: I really don't know.

Mr Murdoch: I wonder if the parliamentary assistant can look into this and come back and speak to it. It's a good point. Maybe the ministries aren't doing things right. That's what parliamentary assistants would love to do, I know: find out this information for us and bring it back at another meeting.

Mr Bisson: I would like to move a motion to that effect.

Mr Murdoch: I can second that.

The Vice-Chair: OK. We'll make sure the parliamentary assistant brings the report back, but in the meantime he does have a—

Mr Kells: I'm about to inform the Chair that I don't see why this should be done by the parliamentary assistant, anyway. I'm talking about the whole situation. It seems to me that this simply could be done by the clerk's office and really doesn't need my input.

But since I'm here, the ministry in question, consumer and corporate affairs, does say the obvious, that the corporation in question failed to respond to a letter from companies branch and then failed to respond to a notice of opportunity to be heard. Corporations still owes \$50 for the special notices fee imposed February 24, 1995. Then they go on to say that they'd like to have that paid and they'd like to have the preamble of the bill reflect what took place.

I can't comment on the efficiency of the government of the day. Maybe it was in the last days of the NDP government; it's hard to know. All I can say is—

Mr Bisson: For that fact, it might be back to the time of Mr Davis.

Mr Kells: That's right. So all I can say is I certainly will pass your concerns along.

Mr Bisson: I just have a question now. It's somewhat related to the parliamentary assistant. I wasn't aware that if you filed for incorporation and you misfiled, you needed a private bill to be incorporated. Don't they just go back and refile again? I'm not quite sure why that happens.

Mr Kells: I'm not either. I'd probably have to ask counsel here for a comment on that.

Mr Bisson: One of the earlier ones had done something wrong in the application, if I understood

correctly. I don't understand why there's not a mechanism in the law that just allows them to reapply without having to go through the expense and the trouble that these people have in coming here today.

Ms Susan Klein: All I know is under the Business Corporations Act there are different kinds of dissolution. There is one provision which allows that if the corporation is dissolved under that section, then they can just come to the ministry and ask to be revived and it's done administratively. All the ones before you today are dissolutions under a different section and there is no provision in the act for administrative revival.

Mr Bisson: That's my point. That's something we should remember if we come back to this act, and maybe a note could be made to the ministry—if you could, Chair—that whenever we amend that act, to try and fix that. I don't know what your expense is for coming here, but you probably had to go to a lawyer.

Ms Qaisi: No, it's not that. It isn't really expensive, it's just that we have a lot of contracts that are tied to the company, including the lease, and if the landlord finds out that it's a dead corporation he'll just take over the business.

The Vice-Chair: Mr Wettlaufer, did you have a question?

Mr Wayne Wettlaufer (Kitchener Centre): In response, this has been a long-standing issue. It's not a problem, but it's a long-standing issue. I can remember for many, many years our corporation was involved in providing bonds for companies that were dissolved as a result of a paperwork error, if you will. You have to consider that there are hundreds of thousands of small businesses registered in the province of Ontario and there are very few situations of this type. In relation to the whole, the number where that takes place is minuscule and, while they're a pain in the behind for the business involved, it's a fact of life.

The Vice-Chair: Mr Spina, you had a question too?

Mr Spina: I'm just wondering if we should address the case here, and then the discussion with respect to the process could carry on afterwards.

The Vice-Chair: Mr Kells has another comment to make.

Mr Kells: The final comment from this point of view is that it was circulated to the Ministry of Finance, who found no difficulty under the Corporations Tax Act, and they have no objection to the revival of this corporation, on the record.

The Vice-Chair: OK, are the members ready to vote?

Mr Murdoch: Just one thing. I'd like to say thanks to the parliamentary assistant. He's doing his job there now and he's finding out the information that we're asking for. We appreciate that.

Mr Bisson: I'm with Mr Murdoch on this.

The Vice-Chair: Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much. It's been good to have you here.

RDP COMPUTER CONSULTING INC. ACT, 2001

Consideration of Bill Pr17, An Act to revive RDP Computer Consulting Inc.

The Vice-Chair: I understand, Mr Spina, you'll be the sponsor for Mrs Molinari?

Mr Spina: Yes.

The Vice-Chair: Do you want to take your seat, then?

We're back to Bill Pr17, An Act to revive RDP Computer Consulting Inc. Robert and Patricia Pilon, welcome this morning, and sorry about the inconvenience to you. Would you or the sponsor like to make any comments on this?

Mr Robert Pilon: Basically, this is to revive the corporation. What happened was, I paid a fee to a financial planner to incorporate my company and he did go ahead and actually cut the cheque, but the cheque was NSF. I received notification from the Ministry of Consumer and Commercial Relations indicating that the cheque was NSF, so I contacted the financial planner and informed him of that. He then told me that we had 60 days to cut another cheque and pay the fee, which he failed to do, so I received a final notice from the Ministry of Consumer and Commercial Relations saying that the corporation had been dissolved. I then contacted them and was informed that the only way I could revive the corporation was to put a private member's bill into the House.

I then proceeded to contact the financial planner and informed him of this. He said that he would go ahead and do all the paperwork for the private member's bill which, again, he failed to do. That's why I'm here today. I put it together myself and that's pretty much it.

1030

The Vice-Chair: Mrs Molinari, would you like to make any comments?

Mrs Tina R. Molinari (Thornhill): Just to encourage the committee to support the bill. I apologize; I was left with having to be in two places at one time this morning, but I'm pleased to be here to support this.

The Vice-Chair: Are there any other interested parties?

Mr Bisson: I'm convinced just on the eloquence of that speech that I must support the bill.

The Vice-Chair: Are there any other interested parties who would like to comment? Does the parliamentary assistant have any comments on this?

Mr Kells: As before, this was circulated to the Ministry of Finance. They have no objections to the revival. The only comment from the ministry of consumer and corporate affairs is, the bill should be changed to reflect the correct company name. Otherwise, the ministry has no objection to the proposed act.

Mr Bisson: Are you suggesting that we change it in the bill? Is that what I heard you say?

Mr Kells: From my understanding, it is correct now. If it isn't, let's find out.

Mr Bisson: OK, fine.

Mr Murdoch: So it's OK now?

Mr Kells: Yes.

The Vice-Chair: Are the members ready to vote on this?

Mr Bisson: Is this a filibuster you're on, Chair, or what?

The Vice-Chair: This is the longest this meeting has ever taken.

Bill Pr17, An Act to revive RDP Computer Consulting Inc. Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much, Mr Pilon and Mrs Molinari.

569924 ONTARIO LIMITED ACT, 2001

Consideration of Bill Pr19, An Act to revive 569924 Ontario Limited.

The Vice-Chair: We have one more and that's from Mr Parsons. Mr McMeekin, are you representing Mr Parsons?

Mr McMeekin: Apparently, yes.

The Vice-Chair: This is Bill Pr19, An Act to revive 569924 Ontario Limited. Mr McMeekin is filling in for Mr Parsons. The applicant is Douglas Amy and counsel is Leslie Mason of Shibley Righton LLP. Mr McMeekin, do you have any comments?

Mr McMeekin: I just want to say that I'm here with Mr Mason on Mr Parsons's behalf. You'll be shocked to learn that there was one additional act of inadvertence which we needed to correct today. Of 700,000 businesses out there, there are at least four we're fixing today. Mr Mason, you might want to add something.

Mr Leslie Mason: I'm the counsel for the applicant. The former law firm representing the applicant inadvertently completed the form incorrectly and, as a result, the corporation was dissolved. The corporation owns a small condominium apartment building in Belleville and acts in a representative capacity for various individuals. As a result, a number of individuals are selling the units to local residents and we can't convey title. So the company must be revived to convey title.

The Vice-Chair: Any comments from any other parties here? Parliamentary assistant, do you have any comments?

Mr Kells: Yes, there are three this time. The Ministry of Municipal Affairs has no objections, the Ministry of Finance has no objections, and I believe the only comment from the ministry of consumer and corporate affairs is that if you would file the proper form showing the directors, they have no objections.

The Vice-Chair: Mr Murdoch, do you have a question?

Mr Murdoch: Again, a wonderful job done by the assistant.

The Vice-Chair: I guess we're now at the point where we're ready to vote on this.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Congratulations. Thank you, Mr McMeekin.

The Vice-Chair: We have one other item on the agenda, and that's a motion to the standing committee on regulations and private bills. It's a motion to revise the membership of the subcommittee on committee business, that the membership of the subcommittee be revised as follows: that Mr Kells be appointed in place of Mr Mazzilli. Do we have a motion to move that?

Mr Murdoch: Can I say something?

The Vice-Chair: Yes, you can.

Mr Murdoch: With the outstanding job he's done today, I wouldn't see why we would not support that, because in each case we had today he had his facts here and he was right up to date. I don't have to move that at all. I think it's just a matter of voting on it, but if we needed to move that, I'd be pleased to do that.

The Vice-Chair: So you would move that?

Mr Murdoch: Yes. I'd be honoured to do that.

Mr Bisson: I'd be honoured to second it. Who else is on the subcommittee? I have a funny feeling I am. Is it me?

Interjection: I think you are.

Mr Spina: Who is the other one?

Clerk of the Committee (Mr Douglas Arnott): The other members are the Chair, Mr Hoy and Mr Bisson.

The Vice-Chair: Do we have a seconder on that? Mr Bisson, OK. Any other questions on this?

All in favour? That's carried.

Is there anything else? We're adjourned.

The committee adjourned at 1036.

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Deuxième session, 37^e législature

Official Report of Debates (Hansard)

Wednesday 27 June 2001

Journal des débats (Hansard)

Mercredi 27 juin 2001

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 27 June 2001

*The committee met at 1003 in committee room 1.*MASTER'S COLLEGE
AND SEMINARY ACT, 2001

Consideration of Bill Pr12, An Act respecting Master's College and Seminary (formerly Eastern Pentecostal Bible College).

The Vice-Chair (Mr Garfield Dunlop): Good morning, everyone. I'll call the meeting to order. I'd like to welcome everyone here. We'll begin with Bill Pr12, An Act respecting Master's College and Seminary (formerly Eastern Pentecostal Bible College). The sponsor is Gary Stewart. Gary, if you could come forward with your delegation, please, and the applicant.

Mr R. Gary Stewart (Peterborough): Thank you, Mr Chairman. It is my pleasure to sponsor Bill Pr12, An Act respecting Master's College and Seminary (formerly Eastern Pentecostal Bible College). The college is located in Peterborough. With me is Dr Evon Horton, the president of the college, and Mary Ruth O'Brien, the counsel for the college. So I will turn it over to them to do a presentation.

The Vice-Chair: Please feel free to make a few comments.

Ms Mary Ruth O'Brien: Good morning. The Eastern Pentecostal Bible College Act was first enacted back in the 1980s and has been amended on two occasions since then to meet the needs of the administration and the growing college.

This particular amendment has two primary purposes: the first is to change the name to Master's College and Seminary; the second is to change the makeup of the board of governors and the executive committee. The existing legislation is very particular, naming particular individuals by their positions with various supporting agencies that help out the college. This is really impractical because the supporters of the college change from time to time, as do their methods of selecting their representatives to the board.

Most of our amendments in the past have been to address these changes. Under this new proposed set-up, it will allow the college some flexibility in its bylaws in ensuring that those constituencies that support the college are properly represented. There have been some small

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

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D'INTÉRÊT PRIVÉ

Mercredi 27 juin 2001

adjustments to some of the administrative powers of the college as well.

Initially, the college had requested the addition of two degrees. We have decided to waive that for now and, if necessary, to obtain these degrees we will go through the procedures required under the Post-secondary Education Choice and Excellence Act, which, if it hasn't been proclaimed now, I understand will be very shortly.

The Vice-Chair: Thank you very much. Gary, did you have any further comments to make?

Mr Stewart: No, I don't think so.

The Vice-Chair: Are there any other interested parties here who would like to make any comments? Would the parliamentary assistant like to make any comments? I'm sorry, yes.

Dr Evon Horton: I just wanted to add to that that the school has been in existence for 61 years. Its primary purpose has been that of training ministers to pastor local churches in our province and other provinces of eastern Canada. I appreciate these changes that will help facilitate our administration and oversight of the school.

The Vice-Chair: Thank you very much, sir.

First of all, I'm going to ask the parliamentary assistant and then the committee members.

Mr Morley Kells (Etobicoke-Lakeshore): Thank you, Chair. Ms O'Brien did explain it very well, but, as you know, the letter from the ministry went to your attention, and there's a penultimate paragraph there which I'm sure you'll be able to comply with, to do with the board of directors, I believe. OK, it's not the board of directors; it's just to do with any proposed degree programs. I think you covered that anyway. So the ministry has no objections.

The Vice-Chair: Mr Hoy, you had a comment or a question?

Mr Pat Hoy (Chatham-Kent Essex): I just had two questions I wanted to ask. Your board of governors shall consist of at least 15 and no more than 25, and the governors would hold office for a term of two years. Is that a change or is that what you've been practising all along?

Ms O'Brien: The number of directors and the term of directors is the same.

The Vice-Chair: Do any other committee members have any questions?

Mr Gilles Bisson (Timmins-James Bay): How many people are enrolled in the college? I'm just curious.

Dr Horton: The head count is between 600 and 900. With some of these changes, we're anticipating it will be over 1,000 for enrolment this fall.

The Vice-Chair: Are the members ready to vote on this? This gets repetitious.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall section 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Yes?

Thank you very much.

1010

CONRAD GREBEL

UNIVERSITY COLLEGE ACT, 2001

Consideration of Bill Pr18, An Act respecting Conrad Grebel University College.

The Vice-Chair: The second bill on our agenda is Bill Pr18, An Act respecting Conrad Grebel University College. The sponsor is Mr Arnott. Mr Arnott, welcome, and your guest as well. We'd like to turn it over to you at this point.

Mr Ted Arnott (Waterloo-Wellington): Good morning, Mr Chairman, committee members. Thank you very much for entertaining our bill this morning. This is Bill Pr18, An Act respecting Conrad Grebel University College, which I have introduced in the Legislature on behalf of the member for Kitchener-Waterloo, the Minister of the Environment, who, as we all know, as a cabinet minister is unable to introduce private bills.

With me today is Dr John Toews, who is the president of Conrad Grebel College, and he has a brief presentation for you this morning.

Dr John Toews: Thank you. Conrad Grebel College was established with Bill Pr71 on January 7, 1988. It's one of four colleges either affiliated or federated with the University of Waterloo. The bill has not been amended to this date. The purpose of this amendment is primarily to change the name of the college from Conrad Grebel College to Conrad Grebel University College.

The college in fact has become a university, offering two different degree programs. We're trying to address public confusion between universities, colleges and community colleges, or high schools, collegiates. A second-

ary purpose of the change is to add the president to the board of governors. The president at this time is not a member and cannot issue recommendations before the board.

The Vice-Chair: Thank you very much. Are there any other interested parties here that would like to make comments? If not, then may I ask the parliamentary assistant. Do you have any comments?

Mr Kells: Actually, no. I have a copy of a letter from the minister to the president. Obviously, there are no objections.

The Vice-Chair: Are there any questions from any members of the committee?

Are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? OK.

Thank you very much, sir. Thanks, Ted.

CITY OF TORONTO ACT

(HERITAGE PROPERTIES), 2001

Consideration of Bill Pr20, An Act respecting the City of Toronto.

The Vice-Chair: The third item on the agenda is Bill Pr20, An Act respecting the City of Toronto. The sponsor is Marilyn Mushinski. Filling in for her today will be Gary Stewart, MPP. Gary, again, if you could.

Mr Stewart: Good morning again, Mr Chairman. It is my pleasure, on behalf of Marilyn Mushinski, MPP, to sponsor the Bill Pr20, An Act respecting the City of Toronto. This private bill will allow the city of Toronto council to delay the demolition of designated heritage buildings until the owner has obtained a building permit for a replacement structure on the property and waited 180 days from the date upon which the owner's application to demolish was refused by council. The owner would also be required to substantially complete the replacement structure within two years of demolishing the heritage building.

With me is Wendy Walberg, Rob Billingsley—and the other gentleman I don't know. My apologies.

Interjection: Wayne Morgan.

Mr Stewart: Oh, sorry. If I'd turned the page, we'd have found Wayne Morgan. Thank you. Welcome.

The Vice-Chair: Feel free to make a few comments.

Ms Wendy Walberg: Good morning. I'm Wendy Walberg from the city of Toronto's legal department. Toronto city council is requesting special legislation that would permit the city to require that any heritage building demolished be replaced within two years of demolition.

Under the Ontario Heritage Act, the owner of a heritage building wishing to demolish the building must seek consent of the municipal council. However, the only consequence of a municipal council refusing an application is that the owner must wait 180 days to demolish the building.

The private bill before you would do two things: it would delay the demolition until a building permit had been issued for a replacement building; and it would also require that the replacement structure be substantially completed within two years of commencement of the demolition itself.

The former cities of Scarborough and Toronto have special legislation which imposes these two requirements. The statute that created the existing city of Toronto preserved the special legislation of the former municipalities within its boundaries. However, the existing special legislation only applies to the geographic area of those former municipalities. Consequently, for heritage demolition applications, Toronto city council now has different powers in different parts of the city. It is that inconsistency which the application before you seeks to remedy.

The special legislation of the former cities of Scarborough and Toronto and the special legislation which the city of Toronto is seeking today are essentially the same. The private bill before you would replace the Toronto and Scarborough acts and would apply equally to all parts of the existing city of Toronto. I am informed that there is similar special legislation in at least 11 other Ontario municipalities.

I have with me today Rob Billingsley, from the city of Toronto's legal services, and Wayne Morgan, from the heritage preservation services division. We'd be pleased to answer any questions you may have about this application.

The Vice-Chair: First of all, I'm going to ask the parliamentary assistant if he has any comments on it.

Mr Kells: Actually, I think it has been explained rather well. The ministry's comments are basically that our own amendments to the Ontario Heritage Act are pending and that we anticipate that the new legislation will afford greater protection to heritage resources than either the current act or a private community's specific legislation, such as this. Having said that, they have no objection to the municipality enhancing its powers under the Ontario Heritage Act to control the demolition of designated heritage properties. Again, they also say that it helps because it ties up the loose ends because of the new city of Toronto's amalgamation. So there certainly is no objection from this end.

The Vice-Chair: Do committee members have any questions or comments? Seeing none, is the committee ready to vote? OK.

Bill Pr20, An Act respecting the City of Toronto:

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall section 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much. It was good to have you here today.

1020

THE BOYS' HOME ACT, 2001

Consideration of Bill Pr13, An Act respecting The Boys' Home.

The Vice-Chair: Our next item is Bill Pr13, An Act respecting The Boys' Home. Ms Churley is not here, so Mr Bisson will be the sponsor.

Mr Bisson: Thank you very much, Mr Chair and members of the committee. As you know, Marilyn was not able to be here this morning. She's at the Walkerton inquiry and has asked me to step in in her stead. I'd like to introduce Mr Carter, who is going to explain this particular act, The Boys' Home Act, and their need to amend a few parts of the act. I'll leave him to explain all that, and I'll move the amendments after.

The Vice-Chair: There are a number of amendments to make on this. It's a little complicated, so we'll work our way through it.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): This is almost like re-introducing the bill, there are so many amendments.

The Vice-Chair: Well, we've read the amendments. We'll do it now. Please carry on.

Mr Terrance Carter: Good morning, Mr Chair and members of the committee. My name is Terrance Carter. I'm pleased to be with you. My clients were to be here, but I think there may have been a communication problem on my part, so please don't read anything into it. They wanted to be here, but I think it's better to go ahead instead of keeping you waiting any further.

I want to give a brief explanation of the purpose of the legislation and then explain what the amendments are. The amendments arise out of discussions with the public guardian and trustee's office, and they've been very helpful in the process, as has Laura Hopkins, counsel for the legislative committee.

The Boys' Home is a very old organization. It's the oldest provider of services for youth in Ontario. It goes back 142 years. It was originally incorporated by the provincial Parliament back in 1861. In 1913, it was amended. The legislation they operate under now is legislation going back to 1963. They run a number of

residential programs, correctional facilities and detention programs, and they get most of their funding from the province of Ontario. It's one of the larger social service providers within the city of Toronto.

Last year, they were looking at undertaking some programs with the province of Ontario. We had an opportunity to review their objects and pointed out to them that, given the passage of time since 1963, it would probably be a good idea to revise and clarify some of the objects. That's important because The Boys' Home is a registered charity with Revenue Canada. Therefore, the members of the board of directors are volunteers, and they want to make sure they're working within the context of their corporate objects. As we went through them, we found that there were some other provisions in the 1963 legislation that we could revise and improve on, dealing with power clauses and so forth.

What I want to do is highlight some of the provisions of Bill Pr13, as well as the amendments, to clarify matters for you. First, the name of the organization originally was going to stay as The Boys' Home. The suggestion from the public guardian and trustee's office was that since provision of services would be offered to females as well, it might be misleading to leave it just as The Boys' Home. We accepted that recommendation, and the board of directors of The Boys' Home approved on Monday night a change of the name of the corporation to The Boys' Home for Youth. The definition of "youth," as you'll see in the legislation, is fairly broad and includes individuals, which obviously includes both males and females. That's one of the amendments that is before you.

The second purpose of the legislation is to clarify the objects. What we've done is a clarification of the services and a clarification of who benefits from them. A clarification of the services allows us to provide services for correctional and detention services, and there has been an amendment which, at the request of the public guardian and trustee, makes it clear that it's charitable. It says "for rehabilitation purposes," and that helps to clarify that matter. The second purpose of the objects being clarified is to expand the age of youth up to 24 and also to include females.

One of the provisions within the legislation is a deeming provision which states that the objects are clarified as being in place at different periods of time. This was reviewed very carefully by the public guardian and trustee's office, and we went through an extensive explanation to them of the purpose for it.

What I'll just explain to you is that the provision of services to females, which goes back to 1999, arises out of the fact that the organization provides anger management services to boys, and therefore it goes into schools. When it goes into schools, you can't very well exclude females within the provision of services. So there has been a small provision of services for females since 1999.

In addition, there has been provision of correctional and detention services since 1989. That's really an

extension of their current objects that were in place in 1963. In addition, there is provision for family services and counselling, which goes back to 1989.

These provisions help to make sure that the board of directors of this volunteer organization will not face sort of the Catch-22 of having clarity being brought to their objects but someone's saying, "Aha, well, you didn't have the authority to do things that you did in the past."

The last deeming provision deals with the definition of age. As you'll see in the legislation, "youth" is deemed to include services for individuals up to 24. That's because the government programs that the organization administers go up to the age of 24. As a result, in providing those services, we have to have the corporate authority for it. That goes back to 1984. It's under a program that the government called the Futures program. We reviewed this with the public guardian and trustee's office. They were satisfied that there was no detrimental interest that would be effected. They thoroughly reviewed the matter and indicated that they're satisfied with the deeming provisions.

A couple of the other provisions, which are a bit more technical but to explain them to you: on the investment powers, when you deal with a charity there has been some debate of whether there have been broad investment powers, and we had attempted through the legislation to clarify that matter. The public guardian and trustee's office, through recent changes that have taken place this month to the Trustee Act, have now recommended that we simply work with the Trustee Act investment powers, and our client is agreeable to that.

There is a clarification the public guardian and trustee's office wanted about the Charitable Gifts Act, and we've agreed to that. That is one of the amendments that is before you.

Then, finally, about the dissolution clause, the public guardian and trustee recommended that if there were any special purpose funds that were in place at the time of dissolution of the organization they be set aside and transferred over to another charity instead of being subject to seizure by creditors at that point. We agreed with them, thought it was a good idea, and have incorporated that into the amendments.

Mr Chair and members of the committee, that's a very brief summary of the legislation and the amendments to it, and I'd be happy to answer any further questions that you may have.

The Vice-Chair: OK, to the parliamentary assistant, first of all, do you have any comments?

Mr Kells: Actually, I chatted with legislative counsel and they assure me that the amendments and the changes suggested by the Ministry of the Attorney General have been acted upon. So from our point of view there's no objection.

The Vice-Chair: Do any of the committee members have any questions?

Mrs Claudette Boyer (Ottawa-Vanier): I just wanted to be sure: what is going to be the title now of the house? What is the house going to be really called?

Mr Carter: It's going to be The Boys' Home for Youth.

Mrs Boyer: The Boys' Home for Youth, OK.

Mr Gill: I have no objection or anything. I'm just thinking out loud. If you were going to change the name anyway, and you do have a male and female population, why would you call it The Boys' Home for Youth? This was sort of a kick at the can, and you could have done it politically correctly, if you wanted to call it that.

Mr Carter: That's a very fair question. There's a lot of heritage, a lot of history involved with the name. It's become an institution that goes beyond the suggestion of gender by the name The Boys' Home. It's similar to the YMCA, Young Men's Christian Association. Our client very much wanted to keep "The Boys' Home" because there are organizations, there are donors, who have given to it over the years, and they didn't want to lose that. At the same time, they wanted to bring some clarity and so they added "for Youth" at the end, which is a defined term. So it's a fair question, but we do want to keep the heritage if at all possible.

Mr Gill: One of the questions that comes up, you know, near your last sentence, you said, "If it ever closes and you have some funds left, then those funds should go to another charity rather than going back to the creditors." My concern is that if you owe money to the creditors and you have money in the bank and your association or home is closing, shouldn't those monies automatically be going to the creditors?

Mr Carter: Yes, and that's correct. The general assets of the organization would be available for creditors. What we're dealing with is special-purpose trust funds, where a donor gives the monies for a particular purpose, and what the public guardian and trustee recommended is that, almost like a charity within a charity, those monies should be protected and the intent of the donor in giving those monies should be protected by having them transferred over to another organization. We thought that was a good idea.

1030

The Vice-Chair: Any other questions? Are the members ready to vote?

Mr Bisson: On a point of order, Mr Chair: To make sure we do this clearly, we should be asking if there are any interested deponents.

The Vice-Chair: Thank you very much, Mr Bisson. Are there any other interested parties who would like to comment on this bill?

Seeing none, are the members ready to vote?

Mr Bisson: There are some amendments that I need to move before we do the vote.

The Vice-Chair: There are a number of them, yes.

Mr Bisson: If you want, I'll go through those now.

The Vice-Chair: Mr Gill, do you have the bill?

Mr Gill: Sure.

Mr Bisson: I move that subsection 1(1) of the bill be amended by striking out "under the name 'The Boys' Home'" at the end and substituting "under the name 'The Boys' Home for Youth'".

The Vice-Chair: You've heard that motion. Any comments on it?

All in favour? Carried.

Shall section 1, as amended, carry? Carried.

Mr Bisson: I move that subparagraph 1(ii) of subsection 2(1) of the bill be amended by inserting "for rehabilitation purposes" after "correctional facilities".

The Vice-Chair: Are there any questions on it? All in favour of the amendment? Carried.

Shall section 2, as amended, carry? Carried.

Mr Bisson: I move that paragraph 8 of subsection 3(2) of the bill be amended by adding at the beginning "Subject to the Charitable Gifts Act".

The Vice-Chair: Are there any questions on it?

All in favour of the amendment? Carried.

Mr Bisson: I move that section 3 of the bill be amended by adding the following subsection:

"Investment of trust funds

"(3) The Trustee Act governs the investment of trust funds by the home."

The Vice-Chair: Are there any comments on it?

All in favour of that amendment? Carried.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

On section 8, you are going to move that?

Mr Bisson: Yes, we can either move to strike or we can vote against it. Would voting against it be the easiest?

The Vice-Chair: On an amendment it's out of order to—

Mr Bisson: I was just going to vote against it. It just seemed to me a lot easier to do it that way. Just call the vote on section 8 and we'll vote against section 8 of the bill.

The Vice-Chair: Shall section 8 carry?

Mr Bisson: No.

The Vice-Chair: No. Thank you very much, Gilles. I found this very confusing too, by the way.

Section 9.

Mr Bisson: I move that section 9 of the bill be amended by adding the following subsection:

"Same

"(2) Upon the dissolution of the home, any special or restricted purpose trust funds held by the home shall be transferred to a new trustee appointed by the directors of the home, to be applied in accordance with the terms of the applicable trust."

The Vice-Chair: Are there any questions? All in favour of the amendment? Agreed.

Shall section 9, as amended, carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Mr Bisson: I move that section 12 of the bill be struck out and the following substituted:

"Short title

"12. The short title of this act is The Boys' Home for Youth Act, 2001."

The Vice-Chair: Are there any questions?

All in favour of the amendment? Carried.

Shall section 12, as amended, carry?

Mr Bisson: I just have one other amendment on the preamble to the bill.

I move that the preamble to the bill be amended by striking out "Statutes of Ontario, 1963" and substituting "Statutes of Ontario, 1962-63".

The Vice-Chair: Are there any questions? All in favour? Carried.

Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much.

The committee adjourned at 1036.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Legislative Assembly of Ontario

Second Session, 37th Parliament

Assemblée législative de l'Ontario

Deuxième session, 37^e législature

Official Report of Debates (Hansard)

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Mercredi 26 septembre 2001

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regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Election of Chair

Élection du Président

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 26 September 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 26 septembre 2001

The committee met at 1003 in committee room 1.

ELECTION OF CHAIR

Clerk Pro Tem (Ms Lisa Freedman): Honourable members, it's my duty to call upon you to elect a Chair. Are there any nominations?

Mr Gilles Bisson (Timmins-James Bay): I have one. I want to nominate my good friend Rosario Marchese.

Clerk Pro Tem: Are there any further nominations? If not, I declare nominations closed and Mr Marchese elected Chair of the committee.

The Chair (Mr Rosario Marchese): That's the simplest thing I've ever done.

Is there any other business?

Mr Bisson: You would know that our leader, Howard Hampton, is bringing forward a bill on behalf of the communities around Sioux Lookout in regard to the establishment of a provincial hospital. Just so members know, in Sioux Lookout, as in Moose Factory, the hospitals are run by the federal government because they fall under the responsibilities of the federal government for Indian affairs. What's happening is that both the federal and provincial governments have agreed to take over the hospitals. What's happening in Sioux Lookout is that they're very much in the process of making that happen. So there's going to be enabling legislation coming before this committee to deal with creating the board and do all those other wonderful things that you need to do to create the hospital.

However, I have a question of the clerk, as I understand there are still some people we need to hear from before that bill is allowed to come before us. Maybe you can clarify that just so I'm clear.

Clerk Pro Tem: I can clarify the situation. With the normal process, when private bills come before this committee, people who wish to comment on a bill are heard by the committee. That's the general process with private bills. The one thing that's different with this bill currently is, because this bill had an estate provision, when it was introduced in the House, it was referred to the Commissioners of Estate Bills, as has another bill that Mr Smitherman has. So this bill is not technically referred to this committee yet. Once the commissioners report, if they report favourably, the bill automatically gets referred to this committee.

I contacted the commissioners last week just for an update on the timing of this bill and received a letter back from them saying that they will look at it as soon as possible. So the bill is not technically referred to the committee yet.

Mr Bisson: Then I'll wait until we get the report back from the Commissioners of Estate Bills and we'll take it from there.

The Chair: Any other comment on this issue? Any other matter of business?

Mr Joseph Spina (Brampton Centre): Thank you, Chair. I just wanted to extend congratulations on your newly elected position.

The Chair: You're so very kind.

Mr Spina: We trust that you will carry the job forward with great honour.

The Chair: And neutrality.

Interjection: And a sense of humour.

The Chair: And with a good sense of humour from time to time.

Mr Bisson: I have another matter I want to raise. I don't know if it's the business of this committee, but my good friend Mr Spina is very much involved in the snowmobile industry, as I am in my riding, and does a lot of work to promote that industry.

I'm wondering if it would be appropriate for us to have some sort of ability to do a little bit of work around snowmobile safety and how you park machines on rail lines during the winter months, if you're allowed to park a snow machine on a rail line, and what the process is if such a machine gets hit. Can we do that here?

The Chair: We don't have a private bill in front of us to debate or discuss but, Mr Spina, do you want to quickly comment? If you want.

Mr Spina: I'm not sure whether it's within the purview of this committee, but I'd be happy to respond. It's illegal and improper to park a snowmobile on railway tracks, and particularly to leave the machine there, and even worse if you leave the site of the accident, which is when the train apparently hit this snowmobile. It seems to me that perhaps a legal matter should be pursued here.

The Chair: Thank you, Mr Spina. It's not a bill before us and we don't really have to debate this.

Is there any other matter of business?

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): I too want to congratulate you for being elected Chair.

The Chair: I have so many friends. Are you sure you Liberal folks don't want to congratulate me as well?

Interjections.

The Chair: Thank you very much. This committee stands adjourned upon the call of the Chair for the next meeting.

The committee adjourned at 1008.



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D'INTÉRÊT PRIVÉ

Wednesday 31 October 2001

Mercredi 31 octobre 2001

The committee met at 1002 in committee room 1.

237661 BUILDERS LIMITED ACT, 2001

Consideration of Bill Pr10, An Act to revive 237661 Builders Limited.

The Vice-Chair (Mr Garfield Dunlop): Ladies and gentlemen, we'll call the meeting to order. I'd like to welcome everyone here this morning.

The first order of business is Bill Pr10, An Act to revive 237661 Builders Limited. The sponsor is Mr Bartolucci. Mr Bartolucci, you can bring forth your applicants to the table, and probably you'd like to make a few comments on this.

Mr Rick Bartolucci (Sudbury): Sure. The corporation was dissolved under the Business Corporations Act on August 27, 1999, for default in complying with the Corporations Information Act. The applicant was in default inadvertently because he did not receive notice of the default at the address he was at. He has certainly agreed to all the government stipulations, and there does not appear to be anyone from the Ministry of Consumer and Commercial Relations who is opposed to this revival. I'll leave it at that.

The Vice-Chair: Thanks, Mr Bartolucci. Would the applicant like to make any comments on the bill?

Mr Awanish Sinha: Thank you, Mr Vice-Chair. My name is Awanish Sinha. I act as agent for the corporation and Mr Joseph Kielek. My only submission is to echo Mr Bartolucci's comments and to say, as Mr Bartolucci said, that the dissolution of this company arose as a consequence of inadvertence in failure of compliance on the part of the corporation. I would simply make as my only submission that I would give my assurance to this honourable committee that the corporation and Mr Kielek understand the importance of compliance, and this committee should rest assured that in the future they will ensure that such compliance is met.

The Vice-Chair: Thank you very much. Are there any other interested parties in the audience who would like to make any comment? Would the parliamentary assistant like to make any comments?

Mr Morley Kells (Etobicoke-Lakeshore): My only comment is to echo what the honourable member said. The ministry has no objections whatsoever to this application.

The Vice-Chair: Are there any comments or questions from the committee members?

Mr Gilles Bisson (Timmins-James Bay): By way of suggestion, we had a long time ago in this committee talked about finding some kind of process to deal with these issues so you don't have to come back before a committee to get this rectified. I'm just wondering where that's at. We've had this a number of times now.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): You mean, to cut through the red tape?

Mr Bisson: There was a discussion here at the committee at one point last spring, and maybe the clerk can bring me up to date, but we had talked about the possibility of looking at finding some process so we didn't have to go through this dog-and-pony show every time a corporation ends up with that type of problem.

Clerk Pro Tem (Ms Lisa Freedman): I think I can probably help out here. About 10 years ago, anybody who was on this committee then would realize that when we did revivals we were doing about 100 or 200 a year, and this committee spent most of its time doing revivals. There was an amendment to the act that allowed a lot of these revivals to be done administratively. There's still a small category of revivals. I think there's a five-year window and certain requirements where people have to come to the committee. I think we're down to about three or four a year, and it's just that they don't quite meet the requirements.

I believe a letter was sent out to see if those could still be caught administratively, but there hasn't been any change in that category. But we're down to only about three or four a year that come through this committee.

The Vice-Chair: Are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the title carry?

Mr Gill: There's an amendment.

The Vice-Chair: Sorry, committee. I'd ask Mr Hoy to move a motion on the preamble.

Mr Pat Hoy (Chatham-Kent Essex): Yes. I do have an amendment to the preamble.

I move that the preamble of the bill be amended by striking out "The corporation was dissolved under the Business Corporations Act on August 27, 1999 for default in complying with the Corporations Information

Act" and substituting "The corporation was dissolved under the Business Corporations Act on August 27, 1999 for default in complying with section 115 of that act."

Mr Bisson: The corporation was dissolved under the Business Corporations Act? Yes, but c'est quoi, la différence?

M^{me} Claudette Boyer (Ottawa-Vanier): Là c'est « Corporations » et là c'est « Business Corporations. »

Mr Bisson: Oh, OK. Excuse me. I was reading the wrong section.

The Vice-Chair: You've all heard the motion on the preamble? All in favour? OK.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you so much, Mr Bartolucci.

Mr Bartolucci: Thank you, committee.

1205458 ONTARIO LTD. ACT, 2001

Consideration of Bill Pr23, An Act to revive 1205458 Ontario Ltd.

The Vice-Chair: Our next bill is Bill Pr23, An Act to revive 1205458 Ontario Ltd. The sponsor is Mr Levac and the applicant is James Disapio. I'd like to ask the sponsor, Mr Levac, if you have any comments and then turn it over to Mr Disapio.

Mr Dave Levac (Brant): The applicant is here to get on with work that is necessary for the reintroduction of this corporation, and it's done with my full support. I would introduce my applicant.

The Vice-Chair: Mr Disapio, would you like to make any comments?

Mr James Disapio: Good morning, Mr Vice-Chairman and members of the committee. I apologize for the reason this company was dissolved. There were a few forms that were not filled out. It will never happen again. And it is affecting day-to-day business.

Mr Bisson: It's OK. You don't have to grovel.

Interjections.

The Vice-Chair: Don't apologize to us.

Any other comments from the committee or would anyone else in the audience like to make comments on this? OK.

Mr Kells: Just a very minor comment from the ministry; it has no objection as long as you file proper forms showing directors. I assume that's being done.

Mr Disapio: It's not a problem.

Mr Kells: So we have no objections whatsoever.

The Vice-Chair: OK. Are the members ready to vote on this?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you, Mr Disapio.

COMMITTEE BUSINESS

The Vice-Chair: The second item on our agenda is a discussion on Bill Pr15, An Act to establish the Sioux Lookout Meno-Ya-Win Health Centre. I'd like the clerk to make some comments on that.

Clerk Pro Tem: This is just to update the committee on the status of Bill Pr15. The subcommittee met and had some discussions on whether the committee would travel up to Sioux Lookout. After that was all resolved, it looks like this committee will be travelling to Sioux Lookout. The House leaders, all the House leaders together, will decide tomorrow on the day we're actually going to go to Sioux Lookout. I should be able to contact the members tomorrow to let them know about this private bill going out to public hearings for one day in Sioux Lookout.

Mr Kells: May I just make one comment on that, if I could, please? I wasn't at the subcommittee meeting, so I have to apologize for not being there in person. It is my understanding that the concern and the reason for the request to travel that far is the composition of what they are setting up. There doesn't appear to be any objection whatsoever, that I know of. I'm just wondering, if the native peoples are concerned, can't that be resolved up there at some kind of public hearing on the matter which would help facilitate what we're trying to do here? I don't object to going that far, but the input from the government members particularly would be minimal, I would think. I'm just wondering what is triggering the necessity to go there. I understand that it's very vital to the people involved, that the composition of the ruling body would be a concern. I'm just wondering what triggers our need to be there.

Mr Bisson: I would love to explain.

The Vice-Chair: Yes, Mr Bisson?

Mr Bisson: I didn't want to take the floor unless I was allowed to.

You understand what the issue is. There's a transfer of a federal hospital that is basically there to serve the aboriginal communities in and around northwestern Ontario, around the Sioux Lookout area. The federal hospital now services not only Sioux Lookout but all the fly-in communities in the area. The federal government is basically transferring that hospital over to the province. There is much worry on the part of First Nations people because of not really understanding what that means to them. Does that mean we're somehow going to lose aboriginal rights they feel they're entitled to as First Nations people under federal authority? Is there going to be some sort of loss in their treaty rights if they transfer that hospital over?

So there is much debate in and around Sioux Lookout and area. The leadership of the First Nations communities is onside to make this happen, by and large; the leadership at both the federal and provincial government levels want to make this happen. But there is a certain amount of concern within the community, and it's felt by

the players on both sides, the federal and provincial levels of government, that this would be a good idea. It gives the community an opportunity to come and voice their concerns so they at least have been heard and that we're clear, when this transfer happens, that all the objections, if any, have been taken into account. It's really necessary.

Let me tell you, I'm going through the same thing in James Bay and it is virtually ripping communities apart. There are huge fights within the First Nations communities on the James Bay coast with the transfer we're doing. You need to have this kind of public process to give people a bit of comfort about what's going on, that they're not being trampled by higher levels of government. This is a good attempt to try to make this happen in a very smooth manner.

Mr Kells: I assume that one of the benefits flowing from that would be that we have it officially on the record. How are we recording the events up there?

Clerk Pro Tem: We'll be travelling with the full—

Mr Bisson: With full Hansard.

Mr Kells: I better understand now. I thought it was an airing. But if they officially want to get it on the record and it has long-term implications—

Mr Bisson: It needs to be done this way for the reasons I explained. I very much expect, in a couple of years' time, when ours is transferred, to do the same thing. As I say, it's been a huge, huge battle within the communities, splitting families and friends.

Mr Kells: OK, then let's have it out.

The Vice-Chair: Are there any other questions?

Mr Hoy: To the clerk, did you say that the House leaders were going to be discussing this?

Clerk Pro Tem: The House leaders discussed it last week, and the House leaders were going back to their caucuses to try to narrow down a date. I think they're fairly close on a date and tomorrow they're going to actually firm up a date.

The Vice-Chair: Anything else, anyone? The meeting is adjourned. Thank you very much.

The committee adjourned at 1014.

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Friday 23 November 2001

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Vendredi 23 novembre 2001

The committee met at 0910 in the Legion Hall, Sioux Lookout.

SUBCOMMITTEE REPORT

The Chair (Mr Rosario Marchese): I'd like to call the meeting to order and welcome everybody. We as a committee are very happy to be here. I as the Chair am very happy to be here. This is the first time I have been in Sioux Lookout. It's a different experience, and quite exciting.

We're going to begin as quickly as we can. We're going to have Pat Hoy read the subcommittee report and we'll approve it after that.

Mr Pat Hoy (Chatham-Kent Essex): I'll move the subcommittee report.

Your subcommittee on committee business met on Monday, November 5, 2001, and recommends the following with respect to Bill Pr15, An Act to establish the Sioux Lookout Meno-Ya-Win Health Centre, 2001.

(1) That an advertisement be placed for one day in the major papers of Sioux Lookout.

(2) That an advertisement be placed on the committee's Internet page.

(3) That interested people who wish to be considered to make an oral presentation should contact the committee clerk by Tuesday, November 20, 2001, at 5 pm.

(4) That the deadline for written submissions be 11 am Thursday, November 22, 2001.

(5) That the committee authorize the Chair and the committee clerk to provide interpretation for the hearings.

(6) That if all groups can be scheduled, the clerk can proceed to schedule all interested parties. Groups will be offered 20 minutes and individuals will be offered 15 minutes in which to make a presentation. The committee clerk, in consultation with the Chair, may modify these times.

(7) That the committee will meet on Friday, November 23, 2001, following the public hearings, for clause-by-clause consideration of the bill.

The Chair: Any questions? All in favour? Any opposed? That carries.

SIOUX LOOKOUT MENO-YA-WIN
HEALTH CENTRE ACT, 2001

Consideration of Bill Pr15, An Act to establish the Sioux Lookout Meno-Ya-Win Health Centre, 2001.

The Chair: We're here to deal with Bill Pr15. An Act to establish the Sioux Lookout Meno-Ya-Win Health Centre, 2001. I'm going to read for the record the report of the estate commissioners.

"Mr Claude L. DesRosiers

"Clerk's Office

"Legislative Assembly of Ontario

"Legislative Building

"Queen's Park

"Toronto, Ontario M7A 1A2

"Report Pursuant to Section 58, Legislative Assembly Act

"Re: Bill Pr15, An Act to establish the Sioux Lookout Meno-Ya-Win Health Centre

"We are of the opinion that the bill in its present form should pass.

"Dated this 28th day of September, 2001."

It's signed by Susan Greer and Maurice Cullity.

The sponsor of the bill is Howard Hampton, as you all know. It would probably be better, since the applicants are going to speak anyway, Mr Hampton, if you have some comments before we get into it.

Mr Howard Hampton (Kenora-Rainy River): Just very briefly. Members will know that Bill Pr15 received first reading on June 26, 2001. We are obligated by our rules of procedure to hold a committee meeting to consider the views and perspectives of people from the communities. There are three sponsors of the bill: the Meno-Ya-Win Planning Board, the corporation of the municipality of Sioux Lookout and the Nishnawbe-Aski Nation. Of course, they will all be making presentations today, as well as the Independent First Nations Alliance, a representative from Muskrat Dam and a representative from Kitchenuhmaykoosib Inninuwug First Nation. I think we should proceed, Chair.

MENO-YA-WIN PLANNING BOARD

The Chair: If I can ask the Meno-Ya-Win Planning Board to come forward, and if I could ask you as well if you could all introduce yourselves for the record.

Mr Jim Harrold: My name is Jim Harrold. I'm staff support for the planning board.

Ms Peggy Sanders: My name is Peggy Sanders. I'm a member of the board.

Dr Terry O'Driscoll: I'm Terry O'Driscoll. I'm chief of staff.

Mr Chris Cromarty: My name is Chris Cromarty. I'm chair for the planning board.

Mr Ennis Fiddler: Ennis Fiddler. I'm a member of the board.

Mr Gary Graham: I'm Gary Graham, counsel.

The Chair: Thank you very much. You've got 20 minutes as a group. If you want time for questions from the parties, remember to leave some time. Otherwise at the end of the 20 minutes we're done.

Can people hear at the back? Would you like to move forward, around the sides perhaps? Otherwise, back there you're not going to hear anybody.

Mr Hampton: Are the speakers not working? Aha, I blew the speakers.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Too much static.

Mr Hampton: The Conservative members often complain about this.

Mr Garfield Dunlop (Simcoe North): We just turn them off.

The Chair: It's probably better this way anyway. You're so far from the rest of us.

Please go ahead.

Mr Cromarty: Thank you for the opportunity to speak to you this morning. My name is Chris Cromarty. You will see that I am referred to as an appointed board member in subsection 2(9) of An Act to establish the Sioux Lookout Meno-Ya-Win Health Centre, the bill which is before you for consideration this morning. I am here as chair of the planning board for the Sioux Lookout Meno-Ya-Win Health Centre, a group that has been meeting since January 2001 as a planning board, the composition and mandate of which is not very different from the transition team referred to in the four-party agreement. That is who I am and why I am here today to ask that you report this bill back to the Legislature with a favourable recommendation.

To begin our presentation, I will highlight a few themes, then introduce some other representatives of our communities who have some important points for you as well.

The first point I want to emphasize is just this: it is time. I first became involved in this project in 1992, which was almost 10 years ago. That was the year that the Nishnawbe-Aski Nation, on behalf of the Sioux Lookout district chiefs, invited the governments of Canada and Ontario and the town of Sioux Lookout to explore the idea of combining hospital services in Sioux Lookout. The four parties established a negotiating committee, a predecessor of sorts to the transition team, which was a predecessor of our planning board, which we hope is a predecessor to the board of directors of the Sioux Lookout Meno-Ya-Win Health Centre.

That 1992 process led the four parties to set out four primary commitments: (1) to develop an agreement on combining hospital and related services; (2) to improve health and health care services; (3) to better balance health care services between prevention and treatment of illness; and (4) to strengthen relationships among all parties.

Out of the 1992 process came the Sioux Lookout four-party hospital services agreement of April 11, 1997. That agreement led to the establishment of the transition team, which eventually became the planning board. It has now been five years since the four-party agreement. The agreement and the four parties have held together and worked together.

There were 10 drafts of the special bill prepared and reviewed and revised by lawyers from the large national law firm we engaged to help us get this done, lawyers for Health Canada, lawyers for the Ministry of Health and Long-Term Care and, finally, lawyers for your committee and the Legislature. Our draft bill has been vetted and vetted, revised and vetted. I hope we can finish that process today.

0920

Our existing hospitals, like those of us who have been involved in this long process, are aging. So we see the passage of this special bill as an opportunity, a chance to establish a new hospital for all and eliminate the current duplication in services and direct more resources toward health needs. This is my first point Mr Chairman: in the view of the four parties and the planning board, it is time.

I want also to say that my experience and my consultations with everyone involved have led me to conclude that the First Nations community and its leadership strongly favour proceeding on the basis of the special bill before you. The people in the town of Sioux Lookout and the leadership of the town strongly favour proceeding on the basis of the special bill before you, and the medical professionals and senior administrators do as well.

Rather than just leave you with me telling you that is the case, that these communities support this process, I have asked Peggy Sanders, Ennis Fiddler and Dr Terry O'Driscoll to speak to you directly about their perspective. Later you will hear from the grand chief and the deputy grand chief of the Nishnawbe-Aski Nation.

Just before I do the introductions, I want to make one final point: the new hospital itself, from a governance and operations standpoint, is coming together and will be ready to go upon passage of this bill. We have established a board to ensure governance will take place in accordance with the four-party agreement and we have had our advisers prepare a detailed bylaw which we will be finalizing over the next month. We have also been working closely with the funding agencies on operations planning and priority issues.

In closing this introduction, let me repeat that it's time and we're ready.

Now I would like to ask Peggy Sanders of the town of Sioux Lookout to say a few words.

Ms Sanders: Good morning, ladies and gentlemen. First, I would like to welcome you to our town. I hope you enjoy your time here. My name is Peggy Sanders and I have lived in Sioux Lookout for over 50 years. I was formerly a teacher and then librarian, and I have been involved with both hospitals here.

I was a member and chair of the district health centre board, and for 30 years I have been a visitor at the zone hospital with a special interest in the new mothers and the babies. Unfortunately, for the past several years expectant mothers from the north have had to go to Winnipeg or Thunder Bay for deliveries. They would much prefer to come to Sioux Lookout, where they are likely to have relatives and friends.

Sioux Lookout is a very interesting and adaptable town. It has survived many changes, both in its economy and in its population makeup. But new projects and plans are always developing. One of those has been the creation, about 10 years ago now, of an anti-racism committee. It has as its slogan "Together We're Better," and the success of its efforts to encourage understanding between various ethnic groups in the community was recognized this spring when this committee received the J.S. Woodsworth Award for Ontario, presented in Toronto on March 21, the International Day for the Elimination of Racism.

Our hospitals here are a very important part of the community. Over the years people have worked hard to build and improve them, and that has given us a strong sense of ownership. Now we want to see this new amalgamated hospital—the realization of a dream for better health services for all our people, in Sioux Lookout and in the northern communities.

Five years ago, at the celebration after the signing of the four-party agreement, we were all on cloud nine. It was a wonderful co-operative effort and our hopes were high. The delays and difficulties that followed were regrettable, but many people throughout the town and the north continued to pursue the dream and grew closer together as they worked to achieve it.

Like my friend Chris Cromarty, I believe that now it is time. We need to proceed with this. Your approval of our bill will make that possible.

Thank you for your attention. We appreciate your presence here and hope you will leave with good memories of this northern community.

Dr O'Driscoll: Good morning. Welcome to Sioux Lookout in November. My name is Terry O'Driscoll. I am a family physician here in town and I'm also currently chief of staff at the Sioux Lookout District Health Centre and have been appointed by the planning board to be chief of staff of the Meno-Ya-Win health care facility when it opens.

I know from my personal experience—I've been here in Sioux Lookout over 20 years now—that the split of hospital services has been detrimental to our communities. It's cut down on the availability of health care to everyone. With the nationwide shortage of health care practitioners and the limitations that have been imposed

by the funding silos—the split between the provincial and the federal—we have been compromised by the need to run two independent facilities. It's unfortunate that it has been this way for the last 20 years, but I believe we have an opportunity to move past all of that and to get on with a more effective way of providing health care.

For example, with the two smaller sites we cannot provide the level of care that the physicians and nurses in town here are capable of providing. We don't have an intensive care unit, so anybody with post-operative complications has to be flown to Thunder Bay or Winnipeg, at least a five-hour drive for any family members. If you can imagine this, it would be equivalent to living in Toronto and having to go visit somebody in Ottawa who was in hospital. With a bigger hospital and the combining of resources we could easily run an intensive care unit and would be moving fewer patients out of town.

Another item that would likely be part of a new facility would be a CT scanner, an important diagnostic tool for physicians that's routine in many communities. Right now we have to fly anyone to Thunder Bay or Winnipeg who has a head injury or needs investigations for cancer treatment. Sometimes we fly people to the States for these services.

Physicians from both facilities have been meeting monthly to discuss these issues of mutual concern about the development of health care in Sioux Lookout. We are looking forward to an improved level of service provision. With a combined nursing and support staff, despite the shortages, we believe we could better utilize our collective energies.

Sioux Lookout has had the enviable reputation amongst many health care professionals over the years as being an interesting and exciting place to work. We currently have over 20 physicians providing health care out of Sioux Lookout. The town of Sioux Lookout actually exceeds our complement, given the underserved area numbers of physicians to be expected, so I think we're one of the rare places in the province where people really want to come and work. We've also been providing training for over 30 medical students and residents on a yearly basis.

My hope for the future is that we can build on that reputation and, with a new hospital and ongoing commitments to education and service provision, help improve the level of health care for all the people of this area.

Mr Ennis Fiddler: Good morning. I would also like to welcome the members of the committee to Sioux Lookout.

My name is Ennis Fiddler. I am the chief of Sandy Lake. I'm here to say to the committee that I and the others are in support of one hospital for all in the Sioux Lookout area.

The idea of one hospital for all goes back quite a way, but notably it was outlined in the Scott McKay Bain report of 1988. The chiefs at that time looked at it and accepted that recommendation. That commission and the report were the result of fasting. Five people went to the

zone hospital to fast to illustrate the deplorable conditions of the zone hospital and the health care at that time: Josias Fiddler, the late Luke Mamakeesic, Alan Meekis, Peter Fiddler and Peter Goodman. This was before 1988. At that time, the zone hospital was in a deplorable condition. You can imagine what condition it is in today. This is what we've been trying to get: a new hospital for all, that would accommodate everybody in the region, first nations communities and Sioux Lookout and the surrounding area.

0930

I would like to quote from the same report, which says, "We believe that the health of the people will only improve when the aboriginal people themselves are responsible for the health programs and planning decisions." The special bill that we're talking about will do that. The planning for the new hospital took a long time, at least five years, where the aboriginal people and the townspeople of Sioux Lookout and the surrounding area took the time to have a dialogue with each other and plan together as a group, as one. As a result, one of the things we feel, quite proudly, is that the First Nations people, in the composition of the board, will have greater representation for our people. We believe this is the right direction and as such we support the idea and the process that will take place in planning for one hospital.

There is also a continuation of mutual trust and respect among the current board members who are planning for the hospital. The spirit of co-operation that exists among those named in the special bill as the first directors of the planning board is very positive. I am confident this group of people can be as good a hospital board as exists in the province.

The Chair: We actually have time for a minute per caucus, assuming members may want to take that. We'll let the government members begin with their questions, Mr Gill to begin with, and if it's a short one, Mr Dunlop can get a question as well.

Mr Gill: I certainly want to thank you for the presentation. It's a pleasure to be here. This is the first snow of the season that we've seen.

I want to commend you. I know it has taken a while, but with the committee being present today and directly listening to your concerns, I think we can come to an agreement and hopefully you will see the going ahead of this planning. That's all I want to say.

Mr Dunlop: Very briefly, it is a pleasure to be here in Sioux Lookout. We had a very warm feeling when we touched down last night on the airplane and saw the blizzard. But I do want to say that I walked over this morning from the inn and it was a beautiful walk. I want to commend you on this beautiful community you live in. I didn't realize when I talked to you earlier, Dr O'Driscoll, that you were a physician here. I compliment you on your work in this community. Good luck in the future.

Mr Toby Barrett (Haldimand-Norfolk-Brant): I'd just briefly echo the comments of my colleagues. I get a very warm feeling in this community and I can really see

how this is going to work. As you say, you've done a lot of work and you are creating one hospital for all. Thank you.

The Chair: Mr Hoy of the Liberal caucus, and M^{me} Boyer, if she'd like to ask a question.

Mr Hoy: I certainly want to congratulate you on years of perseverance and dedication to your community. I want to thank you for working so hard to provide enhanced health care in this region. You're to be commended, as are all others who worked, beyond just the people who are sitting at this table here today. We thank you for not giving up and continuing to work hard for everybody in the community.

Mrs Claudette Boyer (Ottawa-Vanier): I just want to repeat what everybody has said. We did have a warm welcome but we didn't think it was that cold. I'm beginning to think winter is coming.

I want to commend you for your perseverance. When you believe in something, you can see that you have to work hard, but at the end I really hope you will get what you want.

You talk about 20 physicians. Is that between the two hospitals?

Dr O'Driscoll: Yes, it is. There are actually over 20.

Mrs Boyer: And you do have a surgeon.

Dr O'Driscoll: We have one surgeon at the moment. We're in the process of recruiting a second one. We hope to get him through the immigration process in the next month or two.

Mrs Boyer: When you talk about intensive care—and I think that is a must, with all the travelling that has to be done; I think it's just awful to have to travel so long if you need intensive care—would you need more personnel and more physicians or surgeons if you did have the intensive care? Or could you care with what you already have right now?

Dr O'Driscoll: In terms of physicians, I think we're doing reasonably well at the moment. The major shortage we have at the moment is nursing staff.

Mrs Boyer: That's everywhere in Ontario.

Dr O'Driscoll: Yes, but we've been able to attract new physicians, so I think we've got the opportunity to attract the nurses as well.

Mr Hampton: I can't believe none of my colleagues on this committee mentioned the fish. It's all they could talk about last night.

Mr Dunlop: The water's better. The water's great here.

Mr Hampton: I wonder if, just for the edification of the members of the committee, you could state once again the all-in population, the size of the population that would be served by an amalgamated hospital. Just give members of the committee a sense of the distance from, say, Fort Severn to Sioux Lookout or Sandy Lake to Sioux Lookout.

Dr O'Driscoll: I think I can address the population issue. Through the local clinic, we have over 10,000 active charts. Although Sioux Lookout boasts a population of 5,200, I think it's actually somewhere around

6,500. Then we also have patients who come from Pickle Lake, Ignace and all of the unorganized territories around here. The zone physicians provide services to about 14,000 people, spread out over—the number of communities changes—28 communities. Ennis and Chris can probably tell you how far they are. They are hours away by plane ride.

Mr Cromarty: I guess Fort Severn, as you know, is the most northerly community in the province of Ontario, so we're talking about the edge of the world, I guess. If you go farther than that, you'll fall over.

The Chair: That's scary.

Mr Cromarty: Halfway there is where I come from, and that's Wunnummin Lake. We're close to 200 air miles out of Sioux Lookout, northeast of here. Then Fort Severn is still about the same distance farther on from us. This particular time of the year is when we really get hyper, because you can't rely on planes to come in or to take you out, and it's very difficult at this time. Just the last two trips I made in here, the last time I ended up in Winnipeg. I couldn't land here because of the fog, and the same thing again yesterday. I came in earlier in the afternoon and we couldn't land for an hour; we had to circle for an hour. That's the kind of thing I'm talking about, that we're constantly up against the weather as well as distance. When we come down here, we expect to get quality health care, of course, and sometimes that's not so readily available because of other people who need it at the same time as you do. It's very difficult. I'm really hopeful that we get this new hospital and have all these services right in hand so that, as has been mentioned, we don't have to send our people out to Thunder Bay or Winnipeg to be looked after.

0940

Mr Ennis Fiddler: I guess from here to Sandy Lake takes about an hour on a plane. It's 250 kilometres, around there, from here to Sandy. Like Chris says, with the 28 communities, it's quite spread out over a big area. With our combined population—some communities have 400. Sandy Lake and Pikangikum I think are probably the largest. I don't know about Big Trout Lake. Sandy Lake is a little over 2,000 people. In terms of the population, it's between 400 and 2,000 with the 28 communities. We're looking at all over north of Sioux Lookout.

Air transportation is our only means of getting to the hospital, so airplanes are quite important, a fact of life up north. If the weather is bad, from Wunnummin to Sioux Lookout can take five hours.

The Chair: Thank you very much. We do appreciate some of the difficulties that you're expressing with respect to how difficult it is to get from one place to the other.

You have a short comment?

Mr Graham: Just to let you know, Mr Chair, that we would like to leave with the clerk copies of letters of support that have been received from Minister Rock, from the mayor of the town of Sioux Lookout and from the existing DHC hospital. We'll leave those with the clerk.

The Chair: Thank you very much. I want to thank the planning board members for taking the time to come and make this presentation to us.

Before we call the next presenter, are there members of the community who are not listed as deputants who would like to make a deputation today? Seeing none, we'll call the next deputant, the corporation of the municipality of Sioux Lookout, John McDonald. They're not yet here?

Mr Graham: Mr Chair, the letter from the mayor explains why they can't be here but expresses their support for the bill.

The Chair: Perhaps I'll read the letter of the mayor for the record. It's addressed to the "Chair, standing committee on legislation and private bills."

"Re: Bill Pr15...."

"The council of the municipality of Sioux Lookout is pleased to support Bill Pr15, An Act to establish the Sioux Lookout Meno-Ya-Win Health Centre, via this letter. Members of council were unable to be present at today's hearing due to travel commitments, however wished to show their support of the bill under consideration.

"The citizens of Sioux Lookout are looking forward with anticipation to the passage of this legislation. The Sioux Lookout Meno-Ya-Win Health Centre represents a quantum leap for health care services in our community and indeed the whole region of northwest Ontario. Passage of the bill will allow the hospital to proceed 'full steam ahead,' something that many in our community and our partner communities have been working towards for in excess of 10 years now. This legislation marks the start of a great partnership between all communities in northwestern Ontario, united under one purpose: to provide quality health care to everyone in the region.

"The residents of Sioux Lookout and my colleagues on council fully support this legislation. We urge you to give speedy consideration to passage of Bill Pr15 so that we all may move ahead to achieve this goal.

"Thank you for your support of this bill. We are all waiting with anticipation to the passage of the bill in the Legislature.

"Sincerely,

"John W. McDonald

"Mayor."

My thanks to the mayor.

Mr Barrett: Mr Chair, I have a question. I don't know whether it relates to the municipality. I don't know whether a member of the planning board could answer it. With respect to fundraising, so often in building or improving a hospital the municipality would levy a tax or contribute a share, and I just wondered what the fundraising contribution of the municipality would be. Would someone on the planning board be able to answer that?

Mr Harrold: The estimate in the four-party agreement for a new hospital was just that, an estimate. It was estimated at \$30 million. The four-party agreement also calls for contributions to be made from the province and from the federal government toward that and allocated a

certain amount for the town to raise for its portion. There has been a fundraising drive go on. Those funds have been raised. They're sitting in a bank account earning interest. The current planning activity isn't touching those funds. That's there for the capital purposes of creating a new hospital. So the community has responded, and the funds are there.

Mr Barrett: I'm aware of the community and its tremendous fundraising. Specifically, is the municipality itself also budgeting or asking council to levy a certain amount of dollars for this project through taxes?

Mr Harrold: No. They will not be levying on the tax bill. They have contributed to the fundraising, but it's my understanding that that's not the intention at this point.

Mr Barrett: I just asked that because so many municipalities do that.

Mr Harrold: It is becoming more popular, a more common way of fundraising.

Mr Barrett: Very much so, and it has been in the past as well.

INDEPENDENT FIRST NATIONS ALLIANCE

The Chair: We're going to call the next three deputies to come up. I apologize for the pronunciation. I'm very sensitive to that, because my last name is Marchese and people mispronounce it all the time.

We call the Independent First Nations Alliance, the Kitchenuhmaykoosib Inninuwug First Nation, and the Muskrat Dam First Nation. I think all three of you will share the time. Please introduce yourselves as you speak.

Mr Jason Beardy: Good morning, everyone. My name is Jason Beardy. I'm the deputy chief for Muskrat Dam First Nation and I'll be presenting on behalf of the Independent First Nations Alliance this morning.

We are members of the Independent First Nations Alliance. The alliance includes four remote northern First Nations: Kitchenuhmaykoosib Inninuwug, also referred to as Big Trout Lake; Lac Seul First Nation; Muskrat Dam First Nation; and Pikangikum First Nation. The alliance is a unique organization, structured in a way that respects each independent First Nation's status. Our alliance is not a tribal council as defined by Indian and Northern Affairs Canada. Our member First Nations, with the exception of Kitchenuhmaykoosib Inninuwug, are also members of the Nishnawbe-Aski Nation, which represents 49 First Nations in northern Ontario.

In April 1997, the Nishnawbe-Aski Nation, on behalf of the Sioux Lookout First Nations, Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of Ontario, and the town of Sioux Lookout, entered into an agreement, the four-party hospital services agreement, whereby the resources of two existing hospitals were amalgamated to create a new high-quality hospital in Sioux Lookout. The Sioux Lookout District Health Centre is a provincially regulated hospital and the Sioux Lookout Zone Hospital is controlled by the federal government.

As a result of many years of exhausting discussions and negotiations between the parties, the idea of combining the two hospitals in Sioux Lookout came to fruition. It was agreed that this new facility and its directly related services will respect the cultural and linguistic diversity of all the people in the town of Sioux Lookout and the surrounding areas, including the majority of the area residents, the First Nations people.

It is estimated that approximately 50% of the population of the town of Sioux Lookout is of aboriginal ancestry. The First Nations communities in the Sioux Lookout area number 30, with a membership of 16,000, much greater than the population of Sioux Lookout. In fact, the composition of the board of directors of the new hospital under the four-party agreement reflects the principle of representation by population, granting First Nations the majority of board seats, 11 out of 18. As such, pursuant to article 7 of the four-party agreement, the principle of proportional representation is guaranteed.

0950

It is very important to us that the principles and terms set out in the four-party agreement be upheld and maintained. In reviewing the terms of the legislation, our concerns are set out as follows:

(1) Although the four-party agreement is mentioned in the preamble of the legislation, the four-party agreement should be included in the clauses of the legislation itself as opposed to just the preamble. In particular, subsections 1(2) and 2(2) of the bill should be amended to add the clause "in accordance with the four-party agreement." By adding that clause specifically in the legislation it will be clear that the health centre must operate according to the terms of the four-party agreement.

(2) Because of the importance of the four-party agreement in the entire scheme of things, we would like the following clause to be added to the last sentence in the preamble. The wording we suggest is as follows: "which four-party agreement shall govern all aspects and activities of the health centre." Again, this clause would be important to us to ensure that the principles of the four-party agreement are upheld and maintained.

(3) There is a critical problem with respect to board composition. Subsection 4(3) provides that the composition of the board must be consistent with article 7.1 of the four-party agreement. We would like to point out to the committee that article 7.2 of the four-party agreement provides, among other things, that the first board shall consist of 10 members representing the Sioux Lookout First Nations, five members representing the southern communities, the physicians required to sit on the board under the Public Hospitals Act and one First Nations traditional healer selected by the elders. Under subsection 4(9), the legislation specifically names the board members with no reference to the above representation.

(4) We are troubled that the board member we selected to represent the Independent First Nations Alliance, Mr John Cufteet, is not named as one of the board members. As it now stands, therefore, article 7.2 of the agreement is not being complied with, such that there are

now only nine members representing the Sioux Lookout First Nations and six representing the southern communities.

(5) The process of appointing board members is also a concern, as the composition of the board in subsection 4(2) refers to "such other persons as the bylaws specify, to be selected in the same manner provided by bylaw." We wish to advise the committee that as of today there is no bylaw even though we have consistently requested one. The bylaw should be completed concurrently with this act and should specify a composition of the board as set out in articles 7.1 and 7.2 of the four-party agreement. In other words, the bylaws must conform with the four-party agreement. Since we are about to incorporate the Sioux Lookout Meno-Ya-Win Health Centre as a corporation without share capital, the terms and wording of the bylaws must also be scrutinized by the committee prior to the legislation being passed.

(6) A critical interest of our communities is that the new hospital be located on federal land in order to maintain our link to the federal government. As you may know, under our constitution, it is the federal government who is responsible for the interest of our people. In article 9.3 of the four-party agreement, as well as paragraph 7.3 of the bilateral agreement dated April 11, 1997, between the federal government and the Nishnawbe-Aski Nation on behalf of the First Nations of Sioux Lookout, our interest in having the hospital located on federal land is specifically stated. We are pleased that the Sioux Lookout Meno-Ya-Win Planning Board passed a resolution on September 6, 2001, stating and affirming that the new hospital will be located on federal land. Since this issue is very important to us, and since it was provided for in the four-party agreement and aforementioned bilateral agreement, we say a section should be added in the legislation which provides that the new hospital will indeed be located on federal land. We suggest the following words:

"Location of health centre

"3. The health centre shall be located on land owned by Her Majesty in Right of Canada."

Finally, therefore, on behalf of the member First Nations of the Independent First Nations Alliance, we respectfully request the legislation be amended to reflect our concerns.

Mr John Cutfeet: Booshoo to all you committee members. Thank you for the opportunity and thank you for your time today to listen to my statement regarding my short and brief stint as the appointed representative of the Independent First Nations Alliance on the Meno-Ya-Win Hospital Board.

I was officially appointed by the chiefs of IFNA, covering the communities that Jason had outlined earlier. The 1998 registered population of those four communities totalled 5,898, which today is more accurately recorded by First Nations records to total over 6,000 members. This population represents one third of the people served by the new hospital. It is imperative that we have representation.

I considered what my responsibilities would be and what they would entail when I was approached to consider this appointment. I was honoured to have the chiefs place this level of trust and respect in me that they would entrust me to represent and protect their First Nations interests and advocate for them in my role as their hospital board representative. It was with these thoughts that I took the time and effort to research and understand the mandates the chiefs issued through the process of negotiations and upon the signing of the Sioux Lookout four-party hospital services agreement and the Nishnawbe-Aski Nation/Canada bilateral agreement on health care relationships. These agreements took many years and trials to achieve, but they were done through a process of consensus building and working in partnership with our non-native neighbours, health care professionals and both governments represented at each meeting.

I understood what efforts and commitments were heartfully made by all parties and felt truly proud to be appointed and invited by the IFNA chiefs to be a part of such a continuing process.

I wish to state strongly to you that the IFNA chiefs, honouring and respecting the four-party agreement, formally appointed me as their representative, but my hands were tied when my name was removed and not included in the special act by an executive committee which overruled the leadership that appointed me.

Recognizing that there are certain responsibilities to meet any corporate obligations as part of an organization, I also learned that part of the role and responsibilities of a hospital board representative anywhere in Ontario is to honestly and openly represent their community interests to ensure that the highest quality of health care is accessible to the people of these communities, but also to ensure that accountability is maintained as part of the corporate structure.

1000

When I attended the first Meno-Ya-Win Health Centre board meeting I gladly shared the direction I and the other First Nation representatives were given through the various chiefs' resolutions regarding the four-party agreement, the bilateral agreement and conditions that were set by the First Nations in the Sioux Lookout zone.

It was quite disheartening when I was told by the representatives of an executive committee of the planning board, renamed from the hospital board, that I could not be considered a board member unless I signed a consent form which implied I would be more accountable to the board than the communities I represented. Subsequently, I sought direction from the chiefs and community leadership I was chosen to represent on what I should do.

The chiefs felt that more information was needed. A number of letters were forwarded, with minimal response other than from the managing executive committee of the planning board.

The next disappointment was to find out my name had been replaced in the special act by an individual appointed by the executive committee of the planning board. It was at this point that the chiefs of the Inde-

pendent First Nations Alliance made the decision and directed me to present this overview to this legislative committee.

We are now at the point where it is agreed collectively by the Independent First Nations Alliance that the trust, respect and true partnership that was achieved during the negotiations and signing of the four-party and bilateral agreements is fast becoming a flawed process that is not being respectful of the principle of representation by population.

I wish to state strongly to the legislative committee that I am willing to participate actively on the Meno-Ya-Win hospital board, since renamed Meno-Ya-Win Planning Board, as the Independent First Nations Alliance appointed representative, but my hands were tied when my name was taken from the list of the board members in the special act by an executive committee which overruled the leadership that appointed me.

I ask your support to ensure that the special act must be amended to respect the appointment made the Independent First Nations Alliance serving one third of the population in the Meno-Ya-Win hospital jurisdiction.

Thank you for taking the time to have this hearing in Sioux Lookout. I hope you enjoy your stay and tour here, and perhaps one day some of you may wish to explore the geographical area to be served by the Meno-Ya-Win Health Centre during a warmer time of the year. If so, I would be happy to be your guide to any of the communities.

Mr Myron Barr: My name is Myron Barr. I'm counsel for the Independent First Nations Alliance. I won't be making a separate statement this morning. I'm here to assist with any questions the committee might have of Jason, John or myself.

The Chair: Thank you very much. We have plenty of time for questions.

Mrs Boyer: Thank you for your presentation. You're saying in your presentation that you wish that this hospital be built on a federal lot.

Mr Barr: That is correct.

Mrs Boyer: If this bill passes, do you presently know where the lot will be, where this hospital will be?

Mr Barr: No we don't.

Mrs Boyer: I would like to know why you really want it to be federal land.

Mr Barr: In the handout that we have put together as an attachment to the written presentation, you'll see resolutions passed by the chiefs. One of the resolutions, and you'll see that it's a continual theme throughout the last few years, is that the hospital be built on federal land to maintain the tie to Canada. That's essentially what our position is and that's what the chiefs of IFNA are seeking as a guarantee. Therefore, that is why we're seeking an amendment in the legislation to ensure that the federal hospital is indeed located on federal lands.

Mr Hoy: In your presentation, however, you say that there was a resolution passed on September 6, 2001, stating and affirming that the new hospital will be located on federal land.

Mr Barr: That was passed, as we understand it, by the hospital planning board. What we're seeking is that that resolution actually be made a part of the legislation, so that it's guaranteed in the legislation itself that it will be built on federal land.

Mr Hoy: However, you expect that it will be on federal land but the exact location is not known to you at the moment.

Mr Barr: That is correct.

Mr Hampton: I just want to be clear on a couple of points: the first concern you raised is that you want to see subsections 1(2) and 2(2) of the bill amended; the second concern is an amendment to the preamble; the third concern is that where the members of the board are named, you want it designated who they are representative of.

Mr Barr: Not who they are representative of; we want Mr Cutfeet's name to be included as a board member in the legislation. Right now it isn't. He was replaced by a decision made by, as we understand it, the executive committee. Our clients, the chiefs, had asked that. That's in the body of the materials we've attached. Therefore, in order to respect what the chiefs have resolved and who they have named as their representative, that should be in the legislation.

Mr Hampton: I'm not sure of the fifth concern: "The process of appointing board members is also a concern as the composition of the board in clause 4(2) refers to 'such other persons as the bylaws specify, to be selected in the manner provided by the bylaw'." So your concern is that, "The bylaw should be completed concurrently with this act and should specify a composition of the board as set out in articles 7.1 and 7.2 of the four-party agreement"?

Mr Barr: That is correct. Our concern is that under this act, once the board is constituted, then they have the power to make the bylaws. They could change the bylaw, which doesn't reflect the principles that are set out in the four-party agreement. That is why we are saying that it leaves open the possibility that the bylaw could be changed, which would not reflect the principles set out in the four-party agreement. Hence, we are saying that the bylaw should be scrutinized prior to this legislation being passed.

Mr Hampton: The issue of federal land: the sole concern is that the land be owned by the federal government?

Mr Barr: That is correct.

Mr Hampton: OK.

Mr Barrett: Briefly, on the request to have it on federal land, as I understand it, the capital dollars to build this, in 1997 the province promised to put in about \$15 million and the federal government \$10 million; and then fundraising and native contributions making up part of the rest. My question is, do you know what other long-term commitments there are from the federal government to this? Are they basically just handing this over now or will they continue to be part of this partnership over the coming decades as far as assisting with the operating expenses once this facility is built?

Mr Barr: In answer to that question, at this point the federal government is a party to the four-party agreement and they're a party to the bilateral agreement. It is mentioned in here, although it is not mentioned in the legislation. As far as the federal government's role in terms of operating costs, funding, I can't answer that question. Once the corporation is set up—and that's why we are concerned to ensure that the four-party agreement is specifically included in the legislation—when it comes to the operation of this corporation of the hospital, the federal government is looked to and will have some role in the operation of the hospital. How that translates into dollars and cents I don't know.

Mr Barrett: We're not clear either. We've seen a trend over the years, where the federal contribution to health care in general, certainly since socialized health care was first set up, has dropped from 50% to 11%. The provinces now make up that federal share.

Mr Barr: I think that really translates also to a concern that my client is experiencing here. They share that same concern. When they see the downloading of services from the federal government to the provincial government and yet they have their treaty rights with the federal government in the bilateral agreement, that's what is a serious concern to them in terms of the erosion. As such, that's why it is very important to them to have this link to the federal lands issue included in this legislation, in addition to the reference to the four-party agreement.

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Mr Dunlop: I know this is quite a unique situation. I was under the impression from the deputation before you that it wasn't the planning board, it was actually the municipality that had said, by resolution, that this hospital would be built on federal lands. That's my understanding. Is that not the case? I'm sorry, I'm just looking at the gentleman behind. Can I get a clarification on that?

Mr Harrold: The planning board passed a resolution saying that the hospital will be located on federal land. What I was referring to earlier was the fundraising campaign. The town has taken action to ensure that its portion of the funds has been raised.

Mr Dunlop: Mr Chair, can I keep asking questions to everyone? I just want to make sure. Do we have a commitment from the federal government that the hospital will be built? Do we have a piece of property, that land? Is it your resolution supporting that or do we actually know for a fact that there will be a commitment?

Mr Harrold: I'm Jim Harrold from the planning board staff. In the four-party agreement it reads that the authority to determine where the hospital will be located is that of the planning board or, subsequently, the hospital board. The signatories of the four-party agreement include the federal government, the provincial government, the town and NAN. They said to the planning board, "Decide where it is going to be." We passed a resolution that it is going to be located on federal land and we are now in the midst of a detailed site location analysis where we are narrowing it down to a couple of

locations. We hope to have that decision made within weeks for an actual site.

Mr Dunlop: Can I just clarify one thing?

The Chair: Mr Graham, would you like to add something further to clarify?

Mr Graham: I'm Gary Graham, counsel to the planning board. This may help Mr Dunlop. In brief, members of the staff of Health Canada attended the meetings of the planning board. They were there when the resolutions were passed. Minister Rock has submitted his letter of support. There's no resolution or anything like that from Health Canada. At this point, there isn't an identified piece of land. There is no deed yet that could be signed.

Mr Dunlop: My worry is, of the \$10-million commitment from the federal government, are they going to try to eat up half of that in land?

Mr Harrold: No.

Mr Dunlop: The land is free; the \$10 million is on top of it?

Mr Harrold: The \$10 million is relating to the capital construction costs of the building.

Mr Gill: One of the important things that we haven't touched on yet is the concern that equal representation, or the appropriate representation, is not there any more and Mr Cutfeet's name is not there. I just want to get some light put on that, how the name was removed and why it isn't there and how we can address that concern.

Mr Ennis Fiddler: You wanted clarification on this representation? What happened was that John Cutfeet was designated as a board rep for the planning board by his chiefs. In order for the special act to be enacted, it required 10 members. The full membership, as indicated on the four-party agreement, requires 10 members before it can proceed and for us board members to be noted on paper for the special act. So that's me. I'm listed there. I needed to sign a form consenting for me to be on the board. We had nine members who did that, who consented. John was the only one who didn't sign, for his own reasons. We could not send the application with nine signatures because it requires 10. There was some concern, federal and/or something from John, and so we were left with nine people who were on that paper.

What we decided was, in order for us to proceed—because if the application wasn't submitted at that time, it would delay the process further. The special act would not have been submitted at the time it was done and maybe until next year. That delayed the work we needed to do as a planning board. We are a planning board only because we're not incorporated. In order for us to be a hospital board, we need the special act to be passed, and that's what we want to do. The more delays, the more delays there will be in the work. We wanted to address as a board whatever concern John has, but we didn't want to delay the passing of the special act.

The Chair: We understood that.

Mr Ennis Fiddler: So what happened was, we asked somebody else to be the 10th person on an interim basis until John is ready to join the board. John is most welcome to join any time. If the committee would like to

put his name on that application today, that will be great. The board is not ousting him. The board is not saying, "We don't want you." The board is not being disrespectful of IFNA and the IFNA chiefs. We are quite hopeful, and we hope and wish, that John Cutfeet would come on board and work with us.

Mr Gill: I'm not trying to put words in Mr John Cutfeet's mouth in any way, but I think one of the concerns I saw is that he was saying the paper that was supposed to be signed indicated to him that he's more responsible to the planning board and not as much to the community. Is that being addressed somehow before he can come on?

1020

Mr Graham: Yes, there's another section in the draft bill which describes the duty of the directors to serve the best interests of the hospital. That would apply to everyone on the board of directors. That duty arises from that section in the act and not from the consent form. The consent form is required so that those authorizing the bill know that the people whose names are there are consenting to the use of their names and are consenting to be on the board. It's as simple as that.

The Chair: Mr Gill, we are running out of time, but I do want to give the other members an opportunity, given that other members from the previous deputation have taken up some of that time, to say whatever it is they feel they'd like to say.

Mr Cutfeet: I'm not going to take up too much of your time. One of the things that was put forth by Mr Fiddler was that I did not sign for my own reasons, and I just want to clarify that. Anything I do is at the direction of the leadership of IFNA.

As well as the concern of the federal land issue, prior to the four-party agreement being reactivated, the chiefs passed a resolution specifically saying that the new amalgamated hospital would be situated on federal land, and that resolution is in the package you were provided. Therefore, I was just following the direction of the leadership. That is what I was doing.

As far as I'm concerned, if I was appointed by the IFNA leadership, I was to represent their interests on the board. That is what I'm prepared to do. As part of the IFNA leadership passing that resolution, I am prepared to follow that direction.

Mr Ennis Fiddler: Are you coming back on board?

The Chair: John, I'm sorry, Mr Fiddler was asking, are you going back on the board?

Mr Cutfeet: I think I've already stated to the legislative committee that I am willing to participate actively on the Meno-Ya-Win hospital board as the Independent First Nations Alliance representative, but I am not on that list.

The Chair: We understand.

Mr Barr: Just one final statement, Mr Chairman: I referred to the four-party agreement and actually I don't believe that was contained in the package. I've got a copy right here for the members and we'll be photocopying that.

Mr Graham: It's part of the record.

Mr Barr: The four-party agreement?

Mr Graham: Yes.

Mr Barr: It is in the record?

Mr Graham: It's in the compendium.

The Chair: We already have it, I understand.

Mr Barr: Just as a final matter, I'd just like to introduce to the committee Ms Grace Teskey, who is the general manager for IFNA. She just wants to make a final comment to the committee.

The Chair: OK.

Ms Grace Teskey: I actually have one question. In negotiating for the 10 seats from the First Nations perspective, we have lobbied and the chiefs of that forum were very gracious in allowing Lac Seul First Nation to have its own seat because the town of Sioux Lookout is their traditional territory. I guess my question now is, if at one point the IFNA-appointed board member can be unilaterally removed, how do you address that? Today, how do you address the fact that you've had a resignation on the Meno-Ya-Win board from the Lac Seul representative? Is that resignation reflected on the current special act list of names or is that a unilateral appointment again of somebody who's going to be agreeable with a process that is ongoing without regard to the resolutions by the Sioux Lookout chiefs that we maintain and the Independent First Nations Alliance chiefs live by in terms of the federal property? I'm asking a question. We know there is a resignation.

The Chair: Is it to Mr Fiddler, I'm assuming?

Ms Teskey: You know what? I really don't know who I'm asking because we do not have complete transparency in the record-keeping. We don't know because we've been shut out.

The Chair: OK. It's best Mr Fiddler answer that question.

Mr Ennis Fiddler: There was a resignation by the Lac Seul member and it was Lac Seul that appointed the new member. IFNA is not being shut out. There's an idea here that's trying to be put forth that IFNA is being shut out. They're not.

The Chair: We are, as a committee, trying to be as flexible as we can to try to get as good an understanding as possible in order to come up with something that everybody can live with. We are being flexible with the rules to come to that kind of conclusion. We have run out of time. I'm not sure whether or not there's much more that needs to be said, and if so, I want to thank all the deputants for coming and making their presentation.

With respect to amendments, we will deal with possible amendments later on, so that you know. Thank you very much.

GARNET ANGECONEB

The Chair: The next deputant we have is Garnet Angeconeb. Welcome.

Mr Garnet Angeconeb: Mr Chairman, I was wondering if I could do just a little bit of an exercise in relation to my presentation. It'll take about 30 seconds.

The Chair: Of course.

Mr Angeconeb: I would like to ask the members of this committee to please put their hands together like this, flat, touching each other. Thank you very much. The reason why I asked you to do that is because, if you notice, my hands are not touching together flatly. That is because, ladies and gentlemen, I am a diabetic and I am starting to feel the long-term effects of diabetes. What I have is neuropathy. My nerves are dying in my limbs, my hands, my feet, my legs, my face. So if I slur my words in this presentation, it's because of my illness. I wanted to tell you that, so I thank you very much.

My Anishnawbe name is Shapaquash Angeconeb. I'm a member of the Lac Seul First Nation and I'm a member of the caribou clan. My English name is Garnet.

I'm a resident of Sioux Lookout and I have taken great interest in watching the progress made toward the building of a new hospital. However, sometimes I feel progress is impeded by unnecessary petty politics.

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I am a person living with diabetes and I am not getting well in terms of my ailment. In fact, I am feeling the long-term effects of this disease. In the last three months, I have gone to both Winnipeg and Thunder Bay to see specialists. On the evening of October 12, last month, which happened also to be my birthday, I was medevaced. I was airlifted from Sioux Lookout to Thunder Bay on an emergency basis. This experience was not fun, to say the least.

So the discussions and planning of the new hospital go on. I am only one of many people who will benefit from the amalgamation of the two hospitals and the eventual construction of this much-needed facility.

Many times, I feel the parties that are leading the charge in working toward the realization of a new hospital are bogged down because of unnecessary petty politics. Sometimes I wonder if they realize how much pain they are inflicting on the people who are really sick, people like myself. Let me try and explain what I mean.

As a treaty Indian living off-reserve, here in Sioux Lookout, I often question who really represents my interests in the planning of this new hospital. I really don't know. I am a member of the Lac Seul First Nation, but I don't live on the reserve. Recently, my uncle, who lives off-reserve, in Winnipeg, approached his membership, the Lac Seul First Nation, for assistance with a medical, health-related matter. He was simply refused by his own First Nation, because he was an off-reserve member. The door was closed.

So, with all due respect, my chief and council do not represent me on this issue. My First Nation is a member of the Independent First Nations Alliance and, technically speaking, I am a member of the Independent First Nations Alliance. But the Independent First Nations Alliance does not, in any way, speak for me on this issue, and they never have. As a taxpayer of the municipality of Sioux Lookout, I guess in some way I look to them as my representatives. They, however, do not speak on my aboriginal or treaty rights.

My point is that off-reserve First Nations people are in an interesting quandary, and will continue to be until our rights are portable—off-reserve and on-reserve. It seems like when you leave the reserve, all of a sudden you lose your treaty rights when you pass that boundary. I pass that boundary many times and I don't change.

It has been my experience and observation that ordinary people like me have not been listened to in the planning process of this hospital. This is especially true of my own First Nations leadership. I say, again with all due respect, that I would love to see the day that all our First Nations leaders are truly—and I underline “truly”—united on this issue.

On a happier note, I am happy to see off-reserve First Nations people as members of this new board. The new act should ensure off-reserve First Nations are represented on this new hospital board.

In conclusion, I see brighter days ahead for a new hospital incorporation. But I also see more struggles along the way—some necessary and some not so necessary. The key ingredient is to trust each other as you work together. For too long we have not trusted each other and no one really says anything when a delicate issue hits the table. We try to be too nice to each other. We try and accommodate each other too much. I encourage everyone to trust each other and work together as we build this new hospital.

We need this new act and we need this new hospital now. I thank you for listening to me. Once again, can I ask the members to put their hands together. This time, let's pray for a new hospital. Meegwetch.

The Chair: Thank you, Garnet. We have run out of time, but if there was a brief question, I wouldn't mind the members getting that opportunity. I know Mr Dunlop has asked for that. We are only going to take one question from each caucus.

Mr Dunlop: I just want to say that when you talk about politics and agreements and that sort of thing, I come from a municipality where we've just gotten approval for redevelopment of a hospital. It has been close to 25 years and a number of governments. It does take a fair period of time in a lot of cases. I thank you for your comments. I hope that if there's one thing you can put in your hospital—and I don't know if this is included in the future project—it is a dialysis unit. I'm getting a lot of nods at the back. I know it is a serious problem with kidney problems in First Nations people.

The Chair: Mr Gill, very briefly.

Mr Gill: I understand that you do have representation on the board from the off-reserve people now and you want to ensure that that continues. Do I understand that correctly?

Mr Angeconeb: Yes. It would be very good if that could be formalized.

Mr Gill: Just out of curiosity, at the end of your speech you have “meegwetch.” What is that?

Mr Angeconeb: Merci beaucoup.

The Chair: Thank you very much for your presentation.

PROFESSIONAL INSTITUTE
OF THE PUBLIC SERVICE OF CANADA
NATIONAL HEALTH AND WELFARE
UNION, LOCAL 00023

The Chair: We will call on the next deputant, National Health and Welfare Union, Local 00023, Patricia Starratt.

Ms Erin Otto: Hello. I'm Erin Otto. I'm currently employed as a registered nurse at the Sioux Lookout Zone Hospital. I have been working there for nine years now.

I'm here today as a senior steward for the Professional Institute of the Public Service of Canada. I'm representing the PIPS members of the Sioux Lookout Zone Hospital. The concerns of the PIPS members are similar to the concerns of the PSAC members. The presentation that Patricia Starratt will deliver to you is on the behalf of both PIPS and PSAC members.

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Ms Patricia Starratt: My name is Patricia Starratt. I am the president of Local 00023 of the National Health and Welfare Union component of PSAC. Our local represents 94 Health Canada employees who work at the Sioux Lookout Zone Hospital performing a vast array of duties.

As you visit the hospital, you will find our members at the admissions desk, inside the labs and at many workstations. You will find them providing administrative support, not only to the hospital administrator but also to the nursing stations as admissions clerks, medical records clerks, First Nations interpreters, pay and benefits clerks, and as registered practical nurses. You will find them involved in the maintenance of the hospital and the nursing stations. They are the tradesmen, groundskeepers, carpenters, painters and security guards. You will find them in the labs working and responsible for X-rays, hematology, microbiology and urinalysis. You will find them working across the Sioux Lookout zone as environmental health officers. Our members also provide support for 28 nursing stations outside the hospital, as well as five satellite stations.

What you will also find is a group of well-organized, well-represented employees who have a collective agreement which has been built over 30 years and which they are proud of.

Throughout this transition, I will be here to express to you, and the transition committee, the concerns of our membership. There are many.

First and foremost of their concerns has been the lack of proper consultation with them as individuals as well as the lack of consultation with their union representatives, both here and in Ottawa. At least now it appears those consultations are finally under way.

The rest of our concerns are no less significant. Our members currently enjoy a good pension plan. They express concern about what will happen to their pension plan. Will the quality of their pension and its administration be maintained? Similarly, they enjoy good bene-

fits and they express concerns over the uncertainty of how those benefits will be maintained.

The current collective agreement contains long-established agreements on severance pay. Will that benefit be maintained? The collective agreement also contains job security language and workforce adjustment provisions. Will this be respected as we move through transition?

They currently have the right to grieve and have their grievances heard by an independent third party, if need be. Will these rights be maintained?

Many have well-established careers in this hospital environment, and they ask whether they will be permitted to continue pursuing a career in their existing field, or even to have the opportunity to grow within the hospital environment. What about opportunities for advancement?

One would hope that your response to all their concerns would be, "Yes. Yes, we will protect your pension plan and its administration. Yes, we will protect your benefits. Yes, we will maintain your severance entitlements. Yes, we will respect your workforce adjustment provisions. Yes, we will encourage continued careers within the hospital environment. Yes, we will maintain the right to file grievances and third-party arbitration."

I would like to thank you for the opportunity to be before you today. I can only hope that our membership's concerns will not only have been heard, but will also be heeded. After their many years of dedication and hard work devoted to their employer, doing less than responding favourably to their concerns would show a clear lack of respect for the existing agreements and the existing cordial working relationship between the parties involved.

The Chair: Thank you. Are you going to have some remarks too?

Ms Otto: That's it.

The Chair: Very well, we'll go to questions then. We'll start with Mr Dunlop.

Mr Dunlop: You're obviously concerned about your rights as a union from the zone hospital. Are you saying that there have been no negotiations taking place that would be included in the four-party agreement? Is that what you're trying to say?

Ms Starratt: We haven't even been given official notice yet.

Mr Dunlop: OK, that's all I need to know at this point.

Mr Hampton: As I understand it, Pat, under your collective agreement you do have rights to labour adjustment. As I understand it, if there is a transfer from the federal jurisdiction to the provincial jurisdiction, there are a number of things that Health Canada would have to honour. Is that your understanding too?

Ms Starratt: Yes, that's correct.

Mr Hampton: So your major concern is that since you now operate under the Canada Labour Code and, as I understand it, the public service act of Canada, once an amalgamated hospital occurs you would of course then fall under the Ontario hospital employees' act, you would fall under the Ontario Labour Relations Act, the prov-

incial legislation. So what you're seeking is that when this act passes you want some sense of where you're going to be then?

Ms Starratt: Yes, that's correct.

Mr Hampton: I've had the benefit of actually having been able to talk to some people on the provincial side of labour relations, some people on the federal side of labour relations and then some of the people at the planning board. As I understand it, the planning board can't do anything because as a planning board that's all they are now. They have no corporate liability or corporate responsibility. Once this act is passed, they then take on the role of employer and they then have authority as well as obligations. Is that your understanding too?

Ms Starratt: Yes, that is my understanding.

Mr Hampton: What you wish would happen, though, is you wish somebody from Health Canada would come and talk to you?

Ms Starratt: You bet; that's the request.

Mr Hampton: I'll just give you my sense of this again. I understand Health Canada can't talk to you until this act passes, because once this act passes, they are in a position where certain notice provisions then swing into effect and they must then start operating both within the Canada Labour Code and within the collective agreement. Is that—

Ms Starratt: That's correct too.

Mr Hampton: So you're sort of in a catch-22.

Ms Starratt: We are. It seems that really there's nobody there to give us official guidance or to speak on our behalf, except the union reps themselves.

Mr Hampton: I think all members of the committee would appreciate that when you're going to be moved from federal labour relations jurisdiction to provincial labour relations jurisdiction, that does create some insecurity. The catch-22 here is, as I understand it, the triggering event would be the passing of this special act. Once this special act is passed then there are certain obligations on the federal government but until this special act is passed, nothing's happening. So this is quite an uncertain situation for the workers. I think what you want to know is—you'd like some certainty—what's going to happen. After 10 years, you'd like to know what's going to happen.

Ms Starratt: Yes, that's correct.

The Chair: We appreciate your presentation and the concerns you've stated and the members obviously are quite sympathetic to what you have told us.

Ms Starratt: Thank you. Thank you, Mr Hampton.

Mr Hampton: Thank you.

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NISHNAWBE-ASKI NATION

The Chair: The next presenters, from the Nishnawbe-Aski Nation, are Stan Beardy and Dan Koosees. Welcome to you both. If you could just state your names and your positions for the record, we would appreciate it.

Mr Dan Koosees: My name is Dan Koosees. The grand chief is not available because there was an

emergency a few days ago in Toronto: their niece is in the hospital. With me here is Les Louttit, who is a special adviser to our health program.

The last time I had the opportunity to sit before government officials is when I accidentally called Mr Crombie "Mr Miniature." That was a few years ago.

Mr Dunlop: That was federal too.

Mr Koosees: Yes.

First of all, I would like to thank the committee for giving Nishnawbe-Aski the opportunity to make a presentation on this bill. We would also like to acknowledge other presenters who have made their points. Altogether, I think we have a common interest in where we want to go and how we want to see this outstanding issue resolved by all people.

I also want to stress that NAN represents a vast area of northern Ontario. It stretches from the Hudson Bay-James Bay coast to the Manitoba border, and it also consists of a Treaty 9 and a Treaty 5 treaty area.

A long time ago our people had the freedom to roam our lands, with a healthy lifestyle. We had a system that worked through our claniship as well as kinship among the Ojibway, Ojibway-Cree and the Cree people along the James Bay coast.

It was not until the coming of the Europeans that we started experiencing territorial rights, living off the land and also the area of survival. Today our people are confronted by many sicknesses. Our diabetes illness is the highest in any people in Canada. Heart problems and other related illnesses are high among our people today. For those reasons we would like to take part and do a presentation to the committee.

As you are aware, Nishnawbe-Aski was one of the signatories to a four-party agreement on behalf of the chiefs in the Sioux Lookout district. This special bill to establish the Sioux Lookout Meno-Ya-Win Health Centre with a provincially recognized hospital board is the product of the four-party agreement that was signed in April 1997.

This is a unique situation in northwestern Ontario where First Nations, due to their population, will have the majority of seats on a provincially recognized hospital board. This is both a great opportunity and challenge for all of us involved in this process. We must recognize the obstacles we have already overcome in this community to begin to work co-operatively to ensure one service that treats First Nations and non-natives equally.

It wasn't that long ago that racial division reared its hideous head here in Sioux Lookout. Yes, we learn from these situations, but it is still difficult for our people to endure stereotyping and it is especially hard on our youth. Regardless of race or political differences, we all want the same thing, a health centre or hospital that will ensure that our families have the highest standard of health care and services. In addition to that basic requirement, First Nations must have services that are responsive to their unique cultural needs, such as language barriers and dietary needs. The opportunity lies in creating a health care system that is efficient, is accessible for all and creates healthy communities.

Our challenge will be to respect differing world views, while collectively finding solutions to long-standing health problems in our communities. We look forward to the future post-amalgamation process. Currently, the segregation of separate hospitals evokes thoughts of apartheid where First Nations and non-natives received health care services but in different locations. We know that hospital amalgamation can be viewed as an outward expression of unity and cooperation in the town of Sioux Lookout between First Nations people and non-natives. At the same time, it is only the beginning. Let's look at this process as the beginning of healing and health for our respective communities, in both the spiritual and physical sense.

We can see that once this hospital amalgamation process is complete, the duplication of services, effort and resources will hopefully end. Further, a new era of shared responsibility for health care will result in healthy people in this district, regardless of ancestry. As well, we, as First Nations people, want the long-term impacts to include lower infant mortality rates, lower suicide rates among our youth and increased disease prevention.

I speak to you about our hopes, yet there are many in our communities who have concerns regarding this special bill. Some of our elders are concerned because of the promises made when Treaty 9 and Treaty 5 were signed between the government of Canada and our First Nations. We know that this was a nation-to-nation process, but we have yet to see our treaty promises fulfilled. One of those treaty promises was a right to health care, and not just a right to health care that is universally shared by all Canadians but a treaty right to health care.

Our elders tell us that the government, specifically the government of Canada, will always care for our sick people. What does it mean when we participate in a provincial health care process? Some might say that the government of Canada is offloading its responsibilities to the province of Ontario. Some First Nations people see this as a contradiction of the treaty promise—yet another broken promise. In our view, the treaty promise was not, “We will appoint the province of Ontario to look after your sick.”

Some First Nations people see the involvement of the province of Ontario in our health care as an erosion of the nation-to-nation status under which the treaties were signed. This is why even the most symbolic gesture of having the hospital located on federal land would mean so much to our people. I do not address this treaty issue to the committee just to have you solve it, because this would clearly exceed your mandate. However, I address the treaty right to health care because it is a long-standing but valid concern for most of our First Nations. It is for the public record that I express our views on the treaty right to health care.

1100

Currently, Nishnawbe-Aski Nation is attempting to address this treaty and other health care issues with the federal government through a process we call the “political bilateral framework on health care.” This

process will address and maintain the special relationship that NAN First Nations have with the federal government. Ultimately, we see this framework as complementing and reinforcing progressive steps being taken, like this special bill, that will eventually close the gap between our people's very poor state of health and the generally high level of health enjoyed by most Canadians.

In conclusion, I wish to state that Nishnawbe-Aski Nation supports this process insofar as the First Nations in the Sioux Lookout district support the process. The majority of the First Nations in this region agree that Bill 15 is a very positive move that should increase the quality of health care for our people. As we move together through this process, we trust that it will increase the sensitivity, understanding and co-operation between our communities.

The other point I'd like to mention here for the record is that if the committee feels that they need resolutions that were passed by our district chiefs pertaining to a special bill or the land issue concerning the hospital location, we are prepared to provide those resolutions to the committee if they need them.

[Remarks in Oji-Cree]

Meegwetch.

The Chair: Thank you very much. Any questions of any members?

Mrs Boyer: Thank you for your presentation. On page 6, you say, “Ultimately, we see this framework as complementing and reinforcing progressive steps being taken,” and yet, in your conclusion, you state that you support “this process insofar as the First Nations in the Sioux Lookout district support the process.” Could you explain this a little bit?

Mr Kooses: One of the things that I think we'd like to make clear to our people is that the amalgamation and administrative service processes are administrative processes, but our political bilateral arrangement has to be a bilateral arrangement with the federal government. It has to do with lobbying the political issues that are involved, whether it is the hospital or other related health services within NAN territory. The bilateral framework has been designed to see the overall political process that deals with health issues across NAN territory.

Mr Hampton: Particularly on pages 4 and 5 of your brief you go into some depth in terms of dealing with the treaty right to health care vis-à-vis the federal government. Do you see anything in this special act that would diminish, impair or undermine any claim that might be made under the treaty right vis-à-vis the federal government?

Mr Kooses: I think the important thing to realize here is that we'd like to maintain that relationship we have with the federal government on health services. The other thing that needs to happen here is that, constitutionally, the federal government transferred the health responsibility to the Ontario government. The area we need to be consistent on is that we have the inherent right of self-government. I think eventually that point will be reached at a certain time. I've always believed, as the

deputy grand chief for health with the health portfolio, that in the area we're in, there will be a better strategy by our future generations on health issues. That's one of the things I see.

I'm not going to elaborate in terms of where and what is not a treaty right or what relationship there is with the provincial government. I'll wait until you become the Premier.

Mr Dunlop: You might be waiting a while.

Mr Hampton: It's called an endurance race, not a sprint.

Mr Gill: I'm just curious; nobody has touched this morning on the traditional healing. I know there is some component of that in the makeup of the board. Do you want to talk about that? How does that affect the health—

Mr Kooseses: In the program that we're working on under the Anishnawbe-Aski, traditional healing is a very special component to our health care. There are people out there who are still living off the land, who still believe that their medicines are the most effective medicines for illnesses. I think it's a very important part of our health care programming.

Mr Barrett: Very briefly, while we're waiting for MPP Howard to become Premier, there's also a process on the Conservative side. We're also in the process of picking a leader and a Premier. I'd appreciate any thoughts from anybody from Sioux Lookout and the area on that process. Sometimes we don't hear enough from this area about who the Conservatives are going to pick.

Mr Hampton: Can I ask one quick question? Can you just, so that all members of the committee are aware of this, point out again how many First Nations are in effect members of NAN, represented by NAN across the board? Because I'm not sure all members of the committee know what a large body NAN is.

Mr Kooseses: Anishnawbe-Aski is comprised of 49 First Nations communities. I think it is comprised of close to 50,000 members. That's not counting all of our Bill C-31s and other members who have not registered.

The Chair: Thank you very much for your presentation on the topic.

We understand Jim Morris will be here within the hour. It's indefinite, so we don't really know how long that will be. In the meantime, let's see whether we can solve some other questions or at least raise all the other matters we need to raise right now.

First, of the people who are here in the audience, is there somebody else who would like to make a presentation?

Mr Hampton: Mr Chair, there was a question a moment ago about traditional healing and so on. Josias Fiddler is here today. He is on the board as an interim member and is a traditional healer. He's actually in attendance today.

GEORGE KENNY

The Chair: Would you please introduce yourself, if you could get the microphone close to you.

Mr George Kenny: I always get nervous when I'm talking in front of a group of powerful people, including a potential Premier of Ontario, either from this side or that side.

I'm George Kenny. I'm a member of the Lac Seul First Nation and I'm also interim editor for Wawatay News, which goes to all the NAN communities across Ontario and I think across Canada.

1110

I just wanted to express a concern I've always had. I don't want to cause trouble, no more than I usually do. My concern is this. I asked our lawyer at one point if he could forward some sort of resolution requesting that Lac Seul First Nation, as a member of Grand Council Treaty 3, be represented in some form in this process, officially and legally. We talk about the four-party agreement, but officially Lac Seul and Treaty 3 are not part of that agreement. I think everybody agrees with me here that wherever the hospital will be located will be on Treaty 3 land, will be on Lac Seul First Nation traditional territory.

I have some background in archaeology. I go out on the land and I find artifacts that expert archaeologists tell me date back 8,500 years in time. I just wanted to express to the committee members here that that is my concern. Maybe it is too late. I know my sister Lorraine Kenny Beaton is on the board. Some of my other relatives are probably on the board, but they're not officially representing the First Nation. That is the concern I have. How are you going to fix it, please?

The Chair: That was just a question, of course. I'm not sure whether people wanted to ask him anything or say anything with respect to—

Mr Dunlop: I just wanted to mention again about the federal contribution to the existing—what do we call it, the centre? Not the centre, the federal hospital.

Mr Hampton: Sioux Lookout Zone Hospital.

Mr Dunlop: The zone hospital, yes. I very briefly talked to Dr O'Driscoll about it. I want to make very clear, from talking to Dr O'Driscoll and members of the planning board, that they in fact have taken this very serious look at keeping the federal contributions intact for all the programs the federal government pays toward the zone hospital now, in spite of the fact that it'll be now a provincial responsibility. If there was any more discussion we could have on that till Mr Morris comes along or until we do clause-by-clause—I wanted to open it up to some—

Mr Hampton: I'm not sure all members have had a chance to read the four-party agreement.

Mr Dunlop: I haven't and I've got to tell you that.

Mr Hampton: Page 24 is important because it sets out, first of all, the capital funding. The capital funding would work like this: Ontario would contribute 50% of the capital funding, to \$15 million. The federal government, on its own behalf, would contribute \$10 million in capital funding. The federal government, on behalf of the First Nations, would contribute a further \$3.2 million. So a total federal contribution of \$13.2 million. The com-

munity of Sioux Lookout would contribute \$1.8 million for the \$30-million budget. That's how the capital funding works.

If you read the further sections in terms of operational funding, there is also a commitment on the part of the federal government that they would support the operating funding so that there is no loss in funding. The object is that, over time, there will be savings from not having two sites, not having two executive directors, not having two managements etc. There would be savings. Any savings that result from that, the federal government is obligated to put into community health programs and additional programs at the community level. There has been quite a lot of work done here to ensure that this is not a federal withdrawal or a federal offloading, that this is truly a partnership.

Mr Gill: Howard, do you agree, then, that amalgamations do save money and do serve health care better? Is that what you're saying, basically?

Mr Hampton: In general, that's true. You've heard the case made here today that there is a real potential. Instead of having two X-ray machines, have one good one. Instead of having two hospitals without an intensive care unit, have one hospital with a state-of-the-art intensive care unit. That's the prospect.

The Chair: Mr Dunlop, I didn't give you the opportunity earlier on. You're not the parliamentary assistant.

Mr Dunlop: No.

The Chair: I didn't know whether you wanted to make some comments with respect to this or not.

Mr Dunlop: It was simply the clarification of the funding. I'm glad Mr Hampton had that opportunity. I just got my package late yesterday and I didn't get an opportunity to read the agreement. Page 24 clearly outlines it. I was so glad to see that. I wasn't aware of the other \$3.2 million either. Actually we are looking at \$15 million from the province and \$13.3 million from the federal government, plus the ongoing programs and savings. It looks like a winning agreement to me.

I actually think that in spite of the fact that it is a 10-year program—and I know some of the nursing staff or the ladies from the union probably—no, it wasn't the ladies; it was someone else—talked about petty politics. The fact of the matter is, it takes so long to get some of these agreements through because there are so many issues at stake. Although it seems like a while, I'd like to see us pass this quickly and get on with the business of building the hospital in this community and serving the residents of Sioux Lookout.

Can I make one more comment? Because we have a little bit of time.

The Chair: Sure.

Mr Dunlop: Someone mentioned Fort Severn earlier. My colleague Jerry Ouellette, who is sort of the northern Ministry of Natural Resources guy, wildlife guy, in Queen's Park, called me right after I was elected—I think it was in the winter of 2000—and said, "Would you like to come to Fort Severn with me?" I'm thinking, he's called me because he's got the name mixed up. It's Port

Severn he's thinking of because I've got a Port Severn about seven miles from where I live. I called him back and said, "Yeah, but I can go up any time to Port Severn." He said, "No, no. Look on the map." I was aware of Fort Severn when he mentioned it, because it was almost the end of the world. It's the second time—

The Chair: It wasn't so close, was it?

Mr Dunlop: No, it wasn't as close as I could drive to.

Mr Hampton: Now, listen. The best whale watching perhaps in North America is at Fort Severn.

Mr Dunlop: OK. Thank you.

The Chair: Can I recommend to the members, given that we don't know what time Jim is coming—and to be fair, he was going to be here this afternoon. Because we changed the times, obviously, he's not here. But given that we don't know what time he's coming, why don't we prepare ourselves for lunch and then come back here more or less either by 12:30 or a quarter to one? Is that reasonable?

Mr Gill: Did you want to attempt clause-by-clause or do you think you want to wait?

The Chair: It is best that we wait because it is a problem in terms of process. We need to hear the last deputant before we do that.

Mr Hampton: Maybe we could ask the guidance of people who are here. What's the last word on Jim Morris? Does anyone know? He said, "Within the hour." If we could break until 12:30, would that be—

The Chair: We won't be far.

Mr Hampton: We will hear Jim Morris at 12:30 and then start on clause-by-clause? Is that fair?

The Chair: Yes. Thank you.

The committee recessed from 1119 to 1232.

SIoux LOOKOUT

FIRST NATIONS HEALTH AUTHORITY

The Chair: I call the meeting to order and invite the deputant, Jim Morris, to come forward. Welcome, Jim. We thank you for arranging your schedule to be here.

Mr James Morris: Sorry I couldn't come earlier.

The Chair: No, we appreciate it. You have 20 minutes for your presentation, and if you want us to ask you some questions, leave some time.

Mr Morris: Thank you very much. I want to welcome you to Sioux Lookout. I won't say, welcome to the north, and you'll see later why I won't say that. The only person I know quite well is Mr Hampton, but greetings and welcome to Sioux Lookout.

My name is James Morris. I'm originally from Kitchenuhmaykoosib Inninuwug, formerly known as Big Trout Lake. I'm the executive director of the Sioux Lookout First Nations Health Authority.

The reason I did not welcome you to the north is because I guess you know by now that once you get to Sioux Lookout, you still have to go nearly 500 miles from here all the way to Hudson Bay. So to us, coming to Sioux Lookout is like coming south. That is something Mrs Ruth Grier discovered when she was Minister of

Health. I called Toronto and I asked her to come up north. She called right back and she said, "I'm coming to Sioux Lookout." I said, "That's not exactly what I meant." So I told her my mother, who lives in Big Trout Lake, when she says she's going south, she means she's coming to Sioux Lookout. In other words, you're not in the real north until you get past Sioux Lookout and go into the Nishnawbe-Aski communities. That's where most of the communities that we work with are located, the 31 First Nations communities.

Of these 31 communities, only three of them are accessible by road and the rest you have to get to by aircraft. They vary in size in terms of population. Some communities have only 50 people. I think our largest community has 2,000.

If you don't know by now, maybe I should tell you that there are very many complicated health and social issues facing our people in the communities. One of the more well-known ones that you might know is diabetes. Some of our communities have very serious problems with diabetes. I don't know if the chief from the Sandy Lake First Nation told you this morning, but in his community of 2,000, 26% of the people either have diabetes or type 2 diabetes. One in four people has diabetes. It's a very serious matter that really needs attention.

I guess, as you go on in the hearings, the new hospital in Sioux Lookout would address that in terms of providing dialysis services. Right now, people have to go to Winnipeg or Thunder Bay. I think the Sioux Lookout situation only accommodates eight patients, eight people. It's totally inadequate when you consider that we have basically hundreds.

Mental health issues: I don't know if you've heard on the news about the fact that the communities in the Nishnawbe-Aski Nation have been undergoing a youth suicide crisis for the last 14 years. Since 1986 we've lost over 217 young people to suicide. It's just ongoing, which is why, when we were planning the new hospital, we specifically requested that there be mental health beds made available at the hospital, including detox services. At the same time, we have an extremely high birth rate. The communities in the Sioux Lookout zone probably have the highest birth rate in Canada. I don't know the statistics; if you'd like them, I can probably provide them to you later on. But some of our communities have the highest suicide rate in Canada. And in one community of 2,000 people, I think the last time I talked to doctors there, they had about 66 prenatals at any given time—constantly, on a regular basis.

I can go on and on about the scope of health challenges that face our people on a regular basis. But I'm always conscious of the fact that of all these health issues that face our people, it is the children who are impacted the most on a daily basis. Some of the issues that confront us are not just those, but the list that I have provided here. Poverty is endemic in our communities. The remoteness factor doesn't help, except for those people who do a lot of hunting. Unfortunately, a lot of

our young people are not picking up the hunting and trapping and fishing skills as readily as their forebears did. Poor housing: I've always told people that the houses are designed in Ottawa and constructed up north. They're not very well suited for the weather and the terrain. And so on and so on: the list is there. You can read it for yourself.

I wanted to make sure I listed the health issues so that you can read them. You've probably heard about some of them already: diabetes, birth rate, TB.

When I joined the health authority, we found that we had six active cases of TB in our communities. I asked, "How many did you have two years ago?" and they said two. So to me, that means the trend is going up. All the factors that you'll see, the social and economic factors, also contribute to diseases like TB.

I had TB when I was a kid, when I was nine years old. The zone hospital is the first place I came to when I had TB. There was an epidemic in those days that really went through the 1930s, 1940s and 1950s. I contracted it in 1956 and I was in the hospital for 22 months. To me, and to a person like me, the concept of having a TB epidemic is very real when you look at the housing conditions, the food and water up north and so on.

1240

When we think about the future of the unit, I think it's important to know that the health care services and facilities need to be strengthened and improved. A hospital is definitely the key element to dealing with all these health issues, which is why the health authority has always supported, and will continue to support, the new hospital in Sioux Lookout to serve everybody, not just Sioux Lookout.

I want to let the standing committee on regulations and private bills know that the health authority fully supports Bill Pr15, An Act to incorporate the Sioux Lookout Meno-Ya-Win Health Centre, because we are counting on this much-needed new hospital as an integral part of the health care system in our area. It's late, it's overdue. We should have built that hospital a long time ago.

I just want to briefly give you some background information on the health authority itself. Some of you may have heard about the federal task force that was mandated in the area in the late 1980s. It was called the Scott McKay Bain Health Panel and it was mandated to examine the inadequate state of health services in the zone. Out of the 94 recommendations that came out of that report, the chiefs adopted only one recommendation, and that was to establish the Sioux Lookout First Nations Health Authority, whose purpose is to ultimately take over northern health and medical services from the federal government.

Technically speaking, at that time I think they recognized that it should have been the health authority that should have worked on the four-party agreement, but the chiefs couldn't very well assign an important task like hospital negotiations to a new organization, so they created their own mechanism, the chiefs' negotiating

unit, which consisted of five chiefs. These were the main negotiators that resulted in the four-party agreement.

Today, the health authority's mandate remains the same. They operate the programs that I've listed here: TB control program, community development, environmental health. Nodin Counselling Services is probably the busiest aspect of the organization. They have dealt with 1,877 referrals, 23 completed suicides and 472 suicide attempts. That's just for this year, 2001.

We also run a Canada prenatal nutrition program.

The client services department deals with transportation and accommodation for the clients.

I guess you probably know now that the population of the Sioux Lookout zone is approximately 14,000 to 16,000 people, depending on who you talk to. If you look at statistics, the department has dealt with 21,963 clients since January 2000. That gives you an idea of the level of health care in our area.

We also have a health information system and core funding.

We were not an integral part of the negotiations for the four-party agreement, but we played a part by advocating for First Nations people in terms of the governance structure. The chiefs were very clear at the beginning that the makeup of the board should reflect the population of the north, whereby since there were 3,000 people in Sioux Lookout and 14,000 native people, then it should be two-thirds native and one third town. That's what we're advocating. We also advocated for special consideration for traditional foods to be served in the new hospital, which is something that was negotiated in the four-party agreement. We advocated for improvement and reorganization of health services and so on.

Throughout this whole process, we were also concerned that some people were concerned about the possible erosion of treaty rights through the establishment of the new hospital, which would be under provincial jurisdiction, but we chose to deal with those issues through a special bilateral agreement between NAN and the federal government, which is part of the four-party agreement.

We feel that should improve services and programs. We view our hospital definitely as an improvement in services for native people, that through that process treaty rights will be enhanced rather than diminished. We want to assert that treaty rights will always be there, that's one thing. The level of service that's provided is something that fluctuates from time to time. It's very dangerous for people to start thinking that when the level of service goes down, you lose your treaty rights. From what I've heard, many of the same First Nations people have been fighting for their rights since day one, since the day treaty rights—that's something that we will continue to do forever and ever. That's why we feel a new hospital is an enhancement of our rights.

In our future, we see the health authority dealing with hospital services and programs, hostel and accommodation services. You're aware that the four-party agreement includes the construction of a 75-bed hostel here in Sioux

Lookout, and if you want to see the hostel now, you would know that we need the new hostel very badly. I think, Mr Hampton, you've probably seen the hostel and you would agree with me.

It includes a detoxification program at the new hospital. It's something that's overdue and needed; also the mental health services and programs that I mentioned earlier.

We are excited by the prospect of health care improving with the construction of the new hospital. All I can say at this point in time is that we should move forward as soon as we possibly can. By moving forward, I'm talking about the incorporation of the Sioux Lookout board so that they can get on with the task of streamlining hospital and health services in Sioux Lookout and building the new hospital.

The Chair: Thank you, Mr Morris. Questions?

Mr Dunlop: I just want to point out to Mr Morris that some of your concerns were addressed this morning, particularly the one on the dialysis unit that will be in the new facility. I know that in the First Nations communities that I have in my riding, which is in the far south of Ontario—

Mr Morris: The real south.

Mr Dunlop: —near Casino Rama—you probably know that area very well.

Mr Morris: Yes.

Mr Dunlop: Some other people have mentioned it here today as well. But the percentages are about the same. I know we've had to build some dialysis centres in those areas as well.

I was quite surprised about the suicide rate and the number of suicides. Those are pretty fascinating numbers, to think that that's such a problem here. I hope this can address it.

We will be getting into clause-by-clause here in a few moments, but we have listened to a number of stakeholders here this morning. I think it's fairly safe to say that there's a lot of support for speeding this process up as fast as possible and getting to the point where we're actually seeing some bricks and mortar and some construction taking place for this facility that's obviously long overdue.

Thank you for your presentation. It is great to be here in the southern part of the north.

Mr Morris: We just wanted to add our voice to supporting the passage of the bill so that we can get on with the hospital.

The Chair: We've got a few more questions for you.

Mr Hoy: Thank you first of all for adjusting your schedule to meet some of our needs as a committee. We appreciate that very much. I too want to comment on the number of suicides that you mentioned. Not to trivialize any of the other diseases, and not to trivialize the suicides either, but it is such a sad thing and hopefully the health unit will help.

I also note that you say that your staff has increased very dramatically in the last 10 years or so from two to

86. I'm just curious, are you anticipating increasing that staff again soon or are your needs realized now?

1250

Mr Morris: When the Scott McKay Bain Health Panel issued the report, I think the idea was that eventually MSB would develop all the services that they do now, and that the health authority would be the receptacle for all those services. That's where we're at now, in terms of that process. I think what the leadership envisioned is that the health authority will eventually take over all the services that MSB does now. So, yes, the staffing will increase.

In terms of dealing with the suicide crisis, I have to admit that there are no specific resources allocated for us to deal with that issue. We basically have to ask the workers from Nodin Counselling to deal with suicide crisis on a regular basis, but it's not really a part of our arrangement.

Also, the community hospital and crisis teams, we have to pay up front for that, and then bill all the governments for that, and it's up to them to pay us. Do you understand what I'm saying? There is no specific money allocated to suicide crisis. We just have to kind of scrounge around and try and find money wherever we can to deal with it right now.

Mrs Boyer: You talk about suicide, but is it in a special range? Is it teenagers or—

Mr Morris: If you look at statistics, we've always had suicide in our area. If you look at statistics from the 1940s and 1950s, you'll see that there were suicides, but there was no pattern to it. But in 1986 a very real pattern emerged. That's when we started calling it an epidemic. The high-risk group at that time were young people and teenagers between 15 and 25, 90% of the victims within that range. If you wish, I can give you a report that I did on the whole epidemic, so you can see how the numbers have evolved over the years. They are still at high risk for a wide variety of reasons. It's a very complex, multi-faceted problem. There is no one specific reason why these young people kill themselves. You have to look at their environment, you have to look at their past and their personal—everything is all wrapped up.

If you look at all the suicide attempts, you would see that there are also an incredible number of women attempting suicide. The young men were using lethal methods to kill themselves. They weren't attempting suicide; they were killing themselves. There was no question about it. The women were calling for help. We're talking about anywhere between 300 and 500 suicide attempts by women. We deal with this every week. That was a call for help. Mental health experts tell me that the women are stronger, so they're able to call for help. In recent years, the number of women committing suicide is increasing. Mental health experts tell me that's a sign that things are getting worse rather than better. Today, as we speak, after 14 years, we're still smack dab in the middle of a suicide epidemic. And no clear resources are mandated about who's supposed to be dealing with this. The Nodin staff are dealing with it, but

it's really not part of their original task as it is written up in our agreements.

Mrs Boyer: In your First Nations health authority, there is no prevention done about this? Are you planning with this new hospital that you can get forces together and do something? I think that we really need a prevention program, if this is the case.

Mr Morris: We're not even there yet. When I talk about mental health beds in the Sioux Lookout zone, lately at the zone hospital, there are no beds that are specifically allocated as mental health beds. We just put patients wherever we can. At the McKellar hospital, one of the wings deals specifically with mental health issues. That's what we need. We're not going to get that within the hospital, we're just going to get five beds, but that's better than what we have now.

Prevention is something that we haven't even started. A lot of the Nodin community workers are so busy dealing with crises they never have time to do prevention. They do what they can, but it's way, way far below doing what's really needed now.

Mrs Boyer: Thank you. We'll have to look into this.

Mr Hampton: Jim, I just want to ask a couple of clarifying questions. When you refer to MSB, you're referring to the medical services branch of Health Canada? Is that right?

Mr Morris: Yes.

Mr Hampton: You list a number of incredible services that the health authority is trying to deliver now, and I acknowledge that you are probably understaffed on all of them. Just for greater clarity, the funding for the health authority comes primarily from where?

Mr Morris: From medical services branch.

Mr Hampton: So really the health authority is sort of taking over strategies and programs that might have been provided by medical services branch in the past and developing new services?

Mr Morris: Yes.

Mr Hampton: You do devote some of your paper to raising the issue of treaty rights and addressing treaty rights. Treaty rights were raised in three of the presentations this morning, I believe, so I want to ask you a question. I had a chance over the noon hour to talk with some of the other presenters. The four-party agreement actually contains, I think, about three non-derogation clauses saying, "Nothing in this agreement diminishes, undermines or restricts the treaty right to health care vis-à-vis the federal government." One of the issues that was raised was, does the special act also need a simple clause stating, "Nothing in this act derogates from, undermines, diminishes the treaty right with respect to health care"? Do you have a view on that?

Mr Morris: Yes. I don't think it would hurt because I think the four-party agreement is based on the current law as it applies to treaties. What we used was a case which states that nobody can change, alter or do anything to treaties except the people themselves, and certainly not in our hospital services agreement to build a new hospital. So, to make absolutely certain that the agree-

ment doesn't unintentionally affect the treaty, we're going to need a non-derogation clause. In my view, if you wanted to put something like that in the special act to do with that, I don't see anything wrong with it. I think that would strengthen the idea that instead of having a clause in one agreement saying treaties will not be affected, if you put it in another one, that'll just make it that much more sure.

The Chair: Thank you, Mr Morris, for your presentation.

If there are no other questions or comments to be made generally, we can move to clause-by-clause. Is that OK? OK, then, so far I only have one amendment.

Mr Hampton: Chair, if I'm not mistaken, some of the presenters from this morning actually had a chance to talk about some issues over lunch and so I think we do have one amendment. I want to put forward another, but we may also be instructed by some of the presenters from this morning. That might be helpful.

The Chair: Could we take a few moments then for people to do that and write up the amendments so that we have them before us properly and then deal with them more efficiently in that way? If the other amendments are not quite ready and people are working them out, can I suggest a five-minute recess so that can be done and then we'll deal with clause-by-clause?

Mr Hampton: If I may, I believe that there are two amendments ready. I asked the question of Jim Morris just a moment ago about a non-derogation clause. Committee counsel has actually prepared a non-derogation clause. I'd be prepared to put that forward as an amendment. Again, we've heard in at least three of the presentations a concern that the treaty right with respect to health care vis-à-vis the federal government be preserved, not be undermined, not be diminished. So I would respectfully submit that we look at that kind of amendment.

The Chair: It's been submitted, right?

Mr Hampton: Yes.

The Chair: Howard, I was recommending that we recess, for five minutes or so, so that leg counsel can prepare those amendments in consultation with the other groups.

The committee recessed from 1300 to 1306.

The Chair: If I can invite the members to come back to the table, there are a number of people who are interested in speaking, so while the legislative officer is working on the amendments, perhaps we can do the other work as well. Howard, can you indicate who had an interest in speaking first?

Mr Hampton: Josias.

JOSIAS FIDDLER

Mr Josias Fiddler: My name is Josias Fiddler. Our people, especially the elders, gave me my Indian name also.

When I asked Mr Hampton for some time, he asked me how much time I would need. I said about four days,

but I'll try to spare you. I'll try to highlight some of my personal concerns and some of the concerns of the people I've tried to help.

It started in the early 1980s, when I was a chief of the Sandy Lake First Nation. After my grandfather died, I resigned, for a number of reasons. One of the reasons was to continue my grandfather's role in regard to traditional healing and spiritual teachings.

During my years as a chief, I had seen a lot of suffering. I had seen a lot of our people die unnecessarily. There have been some stories about young girls losing their children on the floors of the outhouses. After my time as a chief, I decided to try and do something about the medical services and the hospital services. I had been a patient in a dozen hospitals. I was flat on my back for one whole year when I was younger. As time went by, unless you had seen the condition of the hospital and also the people who worked there—I also feel a lot of compassion for the field staff. I had to work under those conditions in the 1980s. Some of those conditions still exist up to this day.

Anyway, I didn't invite anybody when I made up my mind to do something about those two issues: the medical services and the hospital services. I went from Sandy to Sioux Lookout to stage a fast. Four other people from Sandy Lake followed, and together we sat at the hospital until we met with the Deputy Minister of Health; I forget exactly what his name was. But out of that came the health panel that Jim Morris and other people mentioned. I guess since then I've been involved in trying to help people with a special interest in traditional healing and spiritual teachings.

In 1997, I think it was, Nodin Counselling Services had given me six clients, and on a quarterly basis that's the only, I think, amount of finances they had. That's the only thing that they could afford, to have a traditional person come to counselling services and provide that service. Since 1997, I've been able to accumulate a clientele of over 160, and every month it's climbing. Of all those numbers, I don't have any papers of all those people that we've helped. One of the issues, as somebody said, is suicide. Of the kind of people who have made attempts and then have come to us as traditional people, there haven't been any repeaters. We've been able to help those people start looking at their issues and start walking in the right way and the right direction. They've become good, I guess, citizens of their nation. After all these times I've been able to continue the work of my grandfather. Also, I've been asked to sit on this hospital board, representing the traditional medicine and traditional activities, I suppose.

I guess that's from the 1980s in having to be involved in better services for our people. That's one of the reasons why I wanted to ask a few minutes of your time for me to say that I believe in what we're doing. I believe that this special act should be passed so that we can continue in the work that we need to do for our people. Thank you very much.

Oh, this morning, when you guys started I remarked to one of the people, "They forgot to say the opening prayers." This is what we do in everything that we do. Everything depends on the graces of our creator. As soon as we open our eyes in the morning, we start praying, up to the time we close our eyes and everything in between. We always thank our Great Spirit. Thank you very much.

The Chair: Thank you very much, Mr Fiddler. Questions?

Mr Gill: First of all, thank you very much. We really appreciate that you are on the board and you will be serving your people in that sense. But just to reassure you as well, the morning prayers were done by myself.

The Chair: Anyone else have a comment? Thank you very much.

We understand as well that there may be some other individuals who want to come and make some statements with respect to the possible amendments that are coming forward. Leg counsel is perhaps talking to them at the moment.

Interjection.

The Chair: Is that the group, Raminder, that wanted to approach us with respect to the amendments that are coming forward? We will do that after you've consulted with them? OK.

Mr Gill: As well, I think Ms Grace Teskey wanted to get something on the record if we have one minute to allow that. It's the same group.

The Chair: Should we wait until you've consulted with them? OK. We will recess again briefly for a couple of minutes.

Mr Hampton: Could I just—

The Chair: We won't recess.

Mr Hampton: —raise a couple of issues that are preliminary to clause-by-clause? As we know, IFNA put forward some proposals for amendment. I don't know if you've had a chance to go through the documents. I think it is fair to say that two of the amendments we can accommodate. It looks like there is an agreement being worked on now with respect to John Cutfeet's place on the board. The second is that we could deal with a non-derogation clause so that it is certain that this special act does not diminish, undermine or detract from the treaty right.

I wonder if I can just raise the issue of federal lands. My sense as a practical reality is that the hospital will be located on federal land that will be leased to the hospital corporation. I'm just trying to think of this practically, how this might work. For the hospital to be able to sign contracts for construction, engineering etc, and do that with the issue of security in mind and of financing, it will have to have some long-term tenure to the property. I wonder if I could ask that question. As a practical reality, would we be looking at federal ownership of the land with a long-term renewable lease to the hospital corporation? Is that where we're at?

The Chair: Please reintroduce yourself.

Mr Graham: It's Gary Graham, counsel to the planning board.

The planning board has resolved to locate the new hospital to be constructed on federal lands.

Mr Dunlop: Is it a long-term lease, though, or land ownership? I think that's what Mr Hampton was suggesting.

Mr Graham: If the lands were owned by the hospital, they would not be federal lands.

Mr Gill: So it's a long-term lease?

Mr Hampton: Am I right, that in the sense of the practical reality of this, it would be on federal land? Or am I off in never-never land?

1320

Mr Graham: No, you're living in your practical reality, I think.

The Chair: Did you want to comment on that question? Reintroduce yourself.

Mr Harrold: It's Jim Harrold. There are several ways that we are looking at that will see it either located on existing federal land or arranging for an appropriate transfer and sufficient tenure to allow us to go forward. We understand that there are valid precedents elsewhere that we will be able to employ. We are engaged in conversation with those who are necessary to help us make that happen. Our site selection process is such that we are thoroughly investigating three or four sites at this point in time. Which site ends up as our preferred site for functionality will determine which course we pursue to ensure that it is located on federal land. We are on the case. We have to be a little bit vague at this point because we haven't finalized our site selection process.

Mr Barrett: Another practical question on the site selection: obviously you want to put this building on the best property as far as drainage, access and what have you. I hope that this requirement for federal land doesn't mean that, say, if the ideal site is there and it happens to be owned by the province or the private sector, there's a problem in having that transferred to the federal government.

Mr Harrold: That's exactly what we are looking at at this point. We are looking at functionality, but we are well within our parameter of ensuring that it'll be located on federal land. We are looking at functionality and making sure the site works.

Mr Barrett: It has got to be the best location, yes, no matter who owns it now.

Mr Harrold: I won't translate that into a commitment for funding should we have to acquire one. That is one of the variables that we are looking at.

Mr Hampton: Since you're here, one of the other issues that was put forward was essentially that the words "four-party agreement" should be added to a number of clauses in the act itself. But I understand that can create some practical difficulties. Can you edify us from your perspective on that?

Mr Graham: Yes. The four-party agreement is referred to in the preamble. The planning board is working within the spirit and intent of the four-party agreement. There's one problem with putting those words in, "That the new hospital shall be governed in accordance with the

four-party agreement.” The four-party agreement isn’t an operational document. It doesn’t lay out how to govern a hospital. It doesn’t have a set of bylaws in it. It doesn’t deal with all the issues that you need to deal with in order to run a public hospital. It doesn’t deal with credentialing. It is not an operational document. There’s no problem putting it in the preamble. But to say you’re going to govern the hospital with that four-party agreement—you couldn’t do it. It doesn’t work.

There’s a second problem. One of the presentations this morning hit the problem right on the head. That’s article 7.2 of the four-party agreement, which contemplates the initial board being as appointed by an outside authority, that’s fine for the initial board, but you can’t have that on an ongoing basis. You cannot lawfully have a board the composition of which is controlled by an outside authority. Otherwise the board could be in the position of having no quorum because the outside authority didn’t make appointments available. Or the board could be in the position where those appointed by the outside authority didn’t consent to serve. The new hospital could be brought to standstill by outside authorities if you were to decide to include in the special bill a clause that said, “The hospital shall be governed by the four-party agreement.” There are problems with including those references to the four-party agreement beyond the preamble. I’d advise against it.

There’s one other point: the four-party agreement doesn’t contemplate all of the future health needs of the people who will be served by it. It could be used as a limiting document by the funding authorities in the future, who could look at the special bill and point to the reference to the four-party agreement as a limitation on their responsibility. The planning board has been concerned about that.

Mr Gill: Before he leaves, I want to check something. I want to see the amendment. There’s an amendment coming through on the same subject and I think we should discuss it.

The Chair: Is that an amendment which we expect to be—

Mr Gill: It’s an amendment we were just talking about, so I think it’s fair to give them a chance.

The Chair: I’m just wondering whether—

Mr Gill: We don’t put it on the table; we’re just going to discuss it before we put it on the table.

The Chair: So you don’t want to do that at the clause-by-clause.

Mr Gill: I can, but then we may not get an opportunity to question these parties.

The Chair: OK, go ahead.

Mr Gill: There is an amendment coming through and I think we can discuss that. It’s about subsection 1(2). It is basically that subsection 1(2) of the bill be amended by adding at the end “in accordance with the four-party agreement.” This is at the end of 1(2).

Mr Graham: That’s the very problem. I wouldn’t recommend that language.

Mr Gill: Can you explain that one more time, please? Let’s look at 1(2) and then we can discuss the difficulty.

Mr Graham: It limits it.

Mr Gill: If amended, it would read, “The health centre is composed of the members of its board and such other persons as may be authorized by a bylaw of the board—”

Mr Graham: Just a second. I may have the wrong 1(2).

Mr Gill: So I’ll read that again. “The health centre is composed of the members of its board and such other persons as may be authorized by a bylaw of the board in accordance with the four-party agreement.” What difficulty do you see?

Mr Graham: If the outside appointing authorities do not make appointments available, who would then be on the board and what position would the hospital be in? The hospital needs to be able to repopulate its own board. The principle of proportional representation, which is expressed in the four-party agreement, is in the bill, if you look at subsection 4(3). The numbers for the board will have to always maintain the proportional representation.

Mr Gill: If it’s OK in 4(3), why is it not OK in 1(2)?

Mr Graham: Subsection 4(3) is fine because the board can itself determine what the proportional representation is and can then appoint its board members, subject to the approval of the members.

Mr Gill: Which may not be according to the four-party agreement?

Mr Graham: If it isn’t, you’ve got the preamble and you’ve got 4(3). If you’re offside the four-party agreement, 4(3) makes direct reference to that and you’ve got the protection of the four-party agreement. Do you have the four-party agreement? Article 7.2 says that “until changed pursuant to the act or bylaws of the new hospital corporation, the board shall be composed of” and then it goes on to describe who the persons are who can appoint board members and where they must come from. So even the four-party agreement contemplates that 7.2 can be changed by bylaw.

1330

There’s another clause in the four-party agreement that’s called the “further assurances clause,” and it comes up near the end. I think I made reference to it in my letter. If you look at 13.4 of the four-party agreement, it simply says, “Each of the parties hereto shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other parties may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this agreement.” So the special bill which the applicants have put before you is one of those documents that they have delivered to carry out or better evidence or perfect the full intent and meaning of their agreement.

You’ve heard of NAN’s support, you’ve heard of the town’s support, you’ve heard of Health Canada’s support. We presume the Ministry of Health’s support. Those are the four parties. They’re content with the bill,

and I think they're right to be content with the bill, because they're not creating a hospital corporation which would be subject to being brought to its knees and not being able to function by outside authorities. It will be a hospital that will be in control of its own destiny, subject to your Legislature, of course.

Mr Gill: Have you had that discussion with the Independent First Nations Alliance, exactly that discussion about the four-party agreement, why it can't go in the clause?

Mr Graham: We heard their comments this morning and we talked off-line to the gentleman who had to leave at 11 o'clock. I have explained this to him.

The Chair: And he said?

Mr Graham: I think he understood my point.

The Chair: It that OK with you, Raminder?

Mr Gill: I understand.

Mr Hampton: As I see the issue, the four-party agreement sets out a number of principles, and the challenge in the special act is to refer to those principles such that you can never act outside those principles. That's the challenge. Equally, the danger would be to try to put those principles in every clause of the act, in which case you almost become hamstrung any time you try to do anything. It's important that those principles are referred to, but you can't then take those principles and put them in every clause of the act. It would be very difficult as a hospital board to then do anything. It would be equivalent to taking the Municipal Act and trying to incorporate it into every municipal bylaw. The principles are important and the principles must govern, but I think it would make it almost impossible if you tried to put those principles into every clause of the act.

Mr Graham: The preamble clearly says that this application is made in accordance with the four-party agreement.

The Chair: Do the members still have concerns or questions they want to deal with? Mr Gill, do you want to—

Mr Gill: No, I think there is only one more party who wants to—

The Chair: All right, so we'll invite the members of the Independent First Nations Alliance to come once again and outline some concerns. Your name again, please.

Ms Teskey: Grace Teskey. I'll go back to this board member we were hoping to reinstitute. I was listening to the gentleman who spoke here and thinking that, OK, we were hopeful that we will institute a board member we had appointed. When he says that the board has basically the right to repopulate itself, does that mean again that our board member might be thrown out and repopulated by somebody else? That's my number one question. The other one is—

The Chair: Can we deal with the questions one by one so that we hopefully get that out of the way?

Mr Graham: There is a section in this special bill that deals with vacancies and gives authority for the board to fill vacancies. That authority certainly exists under the

Ontario Corporations Act. Yes, the board and the hospital corporation itself do need to have the ability to fill vacancies.

Ms Teskey: But the four-party insertion would allow me to repopulate my board-appointed position, right? Yet why should you have that right to unilaterally appoint somebody on our behalf which is safeguarded in the four-party?

Mr Graham: There may be, from time to time, political issues with those who are served by the hospital, who may wish, through their representatives on the board, to negotiate who will be on and who will not be on. Ultimately, it is the corporation itself that must be able to fill vacancies. It simply has to have that ability so that it can't be in a position where it is unable to function.

Mr Ennis Fiddler: In terms of representation on the board, it has been an unwritten convention, for lack of a better word, among the chiefs in the Sioux Lookout area or NAN that wherever there is an organization, an authority or any kind of agency created by the chiefs for their communities, such as Tikanagan Health Authority, the representatives on those boards be selected by the chiefs themselves from the five tribal councils in the Sioux Lookout area—the Northern Chiefs, IFNA, Windigo, Shibogama and Matawa—and independent First Nations such as Sandy Lake and Mishkeegogamang. The chiefs have always been careful to make sure there is respect given to that and that's always happened. When the members to this board were selected, that's the approach that was taken. Each of the tribal councils and independents were asked to select their representatives.

The board would like to follow that and is following that. The board will not unilaterally throw a board member out. They did not throw John Cutfeet out of the board. If there is an extra board member required to fill a vacancy on the hospital board, the board will respectfully ask the tribal council from that area to decide who their board member should be. In no way is the hospital board going to take it upon themselves and start dictating and be a dictator.

1340

Ms Teskey: With all due respect, in our presentation we made a solution to you from one of the signatories, the Nishnawbe-Aski Nation, dated October 12, signed by the grand chief, wherein our board member is named; so for me, a signatory approved our board member. I'm concerned that in every repopulation I'm going to be part of repopulating that seat. Those three communities, those 4,000 people, have a right to repopulate that seat. They are the recipients of the health care that's going to be delivered. The signatory did tell us.

Mr Ennis Fiddler: That's fine; that's what I said.

Ms Teskey: That's why we want that comfort level of the addition of "in accordance with the four-party agreement." I don't know why there is a problem. We are not going to bend from that. It is an expectation because the four-party agreement is the only protection we have of what I define to be our interpretation of treaty right to health.

I'm going to put another twist in, because in our submission and in the resolution, the health centre shall be located on federal property. In our submission, we asked that the wording would be, "The health centre shall be located on land owned by Her Majesty in right of Canada," but we've been informed that the province can only ensure that a "it use its best efforts" clause is inserted in there.

I want to put another thought in there. In our submission, you'll see lots of Sioux Lookout chiefs' resolutions that want the guarantee that it is a condition that this hospital be on federal property. We gave you all the resolutions coming from the Sioux Lookout district chiefs. In the absence of the guarantee of this federal property clause and maintaining to abide by the four-party principles and therefore strengthen the board, the board's resolution that it be on federal property, I guess we would require another level of assurance in that we have talked about the pre-incorporation contract.

A pre-incorporation contract, by definition, is a contract that can be enforceable if a company, prior to incorporation, enters into that contract and, as soon as it is incorporated, ratifies the contract so it is enforceable. My understanding of that is the hospital board can enter into an agreement, a pre-incorporation contract agreement, to establish that the hospital is built on federal land. To me, that would be a means of assuring my communities that it is going to be on federal property and assuring those many resolutions that we put in our submission of all those chiefs who wanted the guarantee that it be on federal property. It would certainly go a long way to mending the mistrust and the disharmony that the removal of our appointed member caused. I just want to add for the record that it be considered as another avenue, another mechanism, of ensuring that it is on federal property.

Mr Ennis Fiddler: I want to reiterate that John Cutfeet was not removed from the board.

The other thing is, we do have (inaudible) issues in terms of it being still passed on anything. However, we do have an interest that we would like. If the committee decided to (inaudible), it's fine, as long as it does not unnecessarily delay this process. That's our interest. We would like the committee to recognize that interest. From the hospital point, whatever (inaudible) will allow opposition, but if that unnecessarily delays this process, that's where our interest lies.

The Chair: Thank you very much, all of you, for your comments. As you've noticed, we've tried to be as flexible as we can to try to arrive at a compromise that will fit your needs. We don't always do this, by the way. If only we could do this more often, we would have happier conclusions.

Mr Harrold: Come to Sioux Lookout more often.

The Chair: Right. I think you've noticed that we have attempted to incorporate as much as we can—your ideas, your concerns. We appreciate that.

I think we are ready for clause-by-clause.

Mr Dunlop: Yes, we are.

Mr Gill: Chair, can you give us one minute of recess, please.

The Chair: OK. We'll recess for a moment for the members to consider some of those questions they've got.

The committee recessed from 1346 to 1351.

The Chair: OK, we're ready for clause-by-clause.

Any discussion on section 1? Seeing none, shall section 1 carry? Any opposed? OK, that carries.

Any discussion on section 2? Oh, yes, there's an amendment.

Mr Dunlop: If that's the case, section 1 had an amendment too.

The Chair: Nobody was moving it. That's why I moved on.

Any discussion under section 2? There is an amendment there, though.

Mr Hampton: I don't think that has been formally tabled.

The Chair: Oh, yes, it's the same thing, right.

OK, no discussion on section 2? Shall it carry? Any opposed? That carries.

Any discussion on section 3? All in favour of section 3? Any opposed? That carries.

Any discussion on section 4?

Mr Gill: I see an amendment. Is anybody moving that amendment? Is there an amendment to subsection 4(9)?

The Chair: There is, but they're all the same as the others and I'm assuming—

Mr Hampton: No. I move that paragraph 2 of subsection 4(9) of the bill be amended by striking out "Roger Wayne Bull," "Donna Marie Roundhead" and "Derek Roy Mills" and by inserting in alphabetical order in the list of names "John A. Baird," "Eugene Clifford Bull" and "John Cutfeet."

The Chair: Any discussion?

Mr Gill: I just want to understand. Has John Cutfeet signed the consent form?

The Chair: Does he have to now?

Mr Graham: Mr Cutfeet has not signed the consent form, but the consent forms are not seen as required by the committee, so he's, in that sense, not in any different a position than the others.

The Chair: Shall the amendment carry? Any opposed? Carried.

Shall section 4, as amended, carry? Those opposed? That carries.

Any discussion on section 5? Shall section 5 carry? That carries.

Any discussion on section 6? Shall section 6 carry? That carries.

Any discussion on section 7? Shall section 7 carry? That carries.

Any discussion on section 8? Shall section 8 carry? That carries.

Any discussion on section 9?

Mr Hampton: I would like to put forward—

The Chair: That's a new one. You'll be introducing that as a new section.

Shall section 9 carry? Carried.

Mr Hampton, your motion.

Mr Hampton: I move that the bill be amended by adding the following section:

“Aboriginal rights

“9.1 This act does not abrogate, derogate from or add to any aboriginal or treaty right that is recognized and affirmed by section 35 of the Constitution Act, 1982.”

The Chair: Any discussion?

Mr Hampton: I think we heard today a feeling that there needs to be this mention of treaty rights and that this act does not diminish or undermine treaty rights.

The Chair: Shall section 9.1 carry? Any opposed? That carries.

Any discussion on section 10? Shall section 10 carry? That carries.

Any discussion on section 11? Shall section 11 carry? That carries.

Any discussion on section 12? Shall section 12 carry? That carries.

Shall the preamble carry? That carries.

Shall the title carry? That carries.

That brings us to the bill. Shall the bill, as amended, carry? That carries.

Shall I report the bill, as amended, to the House? That carries.

Thank you very much. We have completed this bill. I thank the members. I want to thank everyone else, but I'll do that before you—Mr Dunlop.

Mr Dunlop: I just want to say on behalf of the government members of this committee—and I'm sure everyone probably agrees with me—that we really appreciated the opportunity to come and visit Sioux Lookout. I want to thank Mr Hampton for asking us as a committee

to do that. I think it's been very worthwhile. It's nice to get out to different parts of Ontario and see how Ontario really does work. We do appreciate being asked here.

Mr Barrett: If I could add to that as well, I really appreciate being in Branch 78 of the Royal Canadian Legion.

I'll mention as well that we come up here from the Legislative Assembly at Queen's Park, and near the east door of the Legislative Assembly there's quite an interesting exhibit of the Sioux Lookout Museum. There's a very old leather dog harness and there's also a leather strap that was used by a local teacher for the last 30 years. When they described this leather strap, they also indicated that it was used every year for those 30 years and they felt that it had quite an impression on the residents.

Mr Hampton: As the member for Kenora-Rainy River, I'd just to like thank all members of the committee and the staff for your willingness. I felt it was important that you were here. Especially from the aboriginal people in this community, but as well from all people, I think everyone appreciates that this has been a long, and sometimes a difficult, process. But I think the overwhelming feeling of the people in the communities is that it's time to move forward. I want to thank all the members for your willingness to come and enjoy a day's work.

The Chair: We were all very happy to be here. We appreciated the way in which you tried to resolve the problems and the way we tried to resolve questions that you've had. We wish this community the best of luck in your next steps. Thank you.

The meeting is adjourned.

The committee adjourned at 1358.

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**Standing committee on
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 5 December 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 5 décembre 2001

The committee met at 1002 in committee room 1.

1268519 ONTARIO INC. ACT, 2001

Consideration of Bill Pr3, An Act to revive 1268519 Ontario Inc.

The Chair (Mr Rosario Marchese): I call the meeting to order.

We are going to be dealing with Bill Pr3. I'd like to call the sponsor, Mr Gill, and the applicant, Mr Jack Ambwani, and if you wouldn't mind introducing yourselves again for the Hansard record.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Mr Chair and esteemed members of the committee, it is an honour for me to present to you today a private bill, Bill Pr3, An Act to revive 1268519 Ontario Inc. If I may take a second, Mr Chair, I do have Mr Jack Ambwani here, who is counsel for the applicant, and I will perhaps ask him to say a few words.

The Chair: Excellent. Please.

Mr Jack Ambwani: Mr Chair and honourable members of the committee, what happened in this matter is that the corporation was registered but the registration fees were not paid. A cheque was sent, which came back. It was a mistake of the bank in processing the cheque and it was not honoured. As a result, the corporation was deregistered by the ministry. By the time we resolved the matter with the bank, the time period given to us had expired, and as such, this corporation could only be revived by an act of the assembly. That's the reason this application has been made by us. We have carried on the business in the name of the corporation, we want to pay the taxes, whatever are due, and we have been trying to revive this corporation so that we can abide and pay the taxes to the government.

The Chair: Thank you very much. I'll ask the parliamentary assistant if he's got any comments with respect to it.

Mr Morley Kells (Etobicoke-Lakeshore): Yes, very briefly, Mr Chair. Obviously, we have no objections and the bill will carry. There's also legislation passed now so this won't have to happen again, so you're doubly covered.

The Chair: Any questions from the members with respect to this? Seeing no questions, I think we're ready for the question.

Shall sections 1 through 3 carry? Any opposed? That carries.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Very well. We're done.

Thank you very much.

CITY OF TORONTO ACT
(RENTAL HOUSING UNITS), 2001

Consideration of Bill Pr22, An Act respecting the demolition of rental housing units in the City of Toronto.

The Chair: We are now going to deal with Bill Pr22, An Act respecting the demolition of rental housing units in the City of Toronto, sponsored by Michael Bryant. Michael, go right ahead.

Mr Michael Bryant (St Paul's): Mr Chair, members of the committee, I will try to be as brief as possible because I know time is of the essence. We want to hear from everybody, but it's very important that we get through all the speakers so that in fact we put this matter to a vote. We cannot have this put over to another day.

Right now, as we speak, across this city bulldozers are revved up and ready to take down thousands of affordable apartment units. This private bill puts those bulldozers where they belong in the midst of a housing crisis: the bullpen. This private bill is an antidote to the increased decline of affordable housing stock by giving to a city—Toronto—the power to control its own housing fate, and to accept responsibility for that fate as well.

Just as you preserve water in a drought, so do you preserve affordable housing in the midst of a housing shortage. Yet our present laws permit us to pour that precious commodity of affordable housing down the drain. I cannot believe that it would be the intention of any member to effect that result, and that is why the city of Toronto has brought forth this private bill, so that we can correct that result.

The chronology here is pretty simple. In 1997, the Tenant Protection Act repealed the Rental Housing Protection Act, which had permitted municipalities to restrict apartment demolitions and condo conversions. The Tenant Protection Act permits such demolitions and conversions without municipal approval, subject to a

finding from the Ontario Municipal Board. In January 1999, the Anne Golden report recommended the preservation of existing affordable rental units while placing controls on demolition and conversion of the current affordable housing stock. So the city of Toronto said, "OK, let's do that," in April 1999 with official plan amendment 2, and I think the city is going to speak to that, so I'll just leave it at that. That bylaw, of course, was struck down by the OMB. Subject to an appeal, that is on reserve right now with the Divisional Court.

The genesis of this private bill was a unanimous resolution passed by the city of Toronto in October 1999 supporting a private bill that's now before you and requiring the mayor to urge members to support the bill. I know members will remember that in February of last year Mayor Lastman wrote you all urging you to support this private bill.

Last year, Ontario lost over 630 units to conversion and demolition, according to the Canada Mortgage and Housing Corp figures for 2000. Currently, there are over 2,000 units threatened with demolition or conversion. Since 1997, affordable housing stock has declined.

So the situation is pretty straightforward. We have less supply; we have increased demand. We have laws that permit even less supply, and this private bill tries to correct that.

I want to be clear to the members: the bill is not a panacea. It's not going to create more housing stock. It's a shield. The purpose of it is to stop further decline of affordable housing stock. That's the purpose of it. The longer-term debate over housing we're going to have to leave for another day. That's not the purpose of this private bill.

This matter came up because in 1998 I met a number of people from buildings on Tweedsmuir Avenue near St Clair and Bathurst. They were frightened because, after living in the building for years, many of them seniors, many of them disabled, they found themselves in a situation where the building was going to be demolished. It was affordable housing, and there was nowhere to go. There was nowhere to go because the vacancy rates are at an historic low. Even worse, affordable housing is almost impossible to find.

1010

To make the situation even worse, while they could return to that unit after the apartment was demolished and the luxury condo built, where were they going to go in the midst of that demolition? They can't stay at the Royal York Hotel during construction. Clearly, with these demolitions, with social housing waiting lists at 10 years for many, we're going to get more homeless unless we get in there right now and put up this shield and say, "Let's let the city decide whether or not to permit further demolitions and conversions." This bill, of course, just deals with the demolition issue.

I obviously want to thank my colleague and our housing critic, David Caplan, without whom this bill would not have happened, and of course the support of caucus members—I know Mike Colle has a private member's

bill that deals with these issues as well—and the councillors in St Paul's. I'm very fortunate to work very closely with city councillors Walker and Mihevc, and I'm grateful to all those councillors in the city who also supported this resolution, and the mayor and city staff as well. Special thanks also to Councillor Duguid for coming today.

That concludes my presentation. I urge members not to treat this in a partisan manner. We can in fact give back to the city its power. If they want the responsibility for this, let's give it to them. Let's recognize the housing problem that Toronto has and step in and give them the tools they need to stop further decline of affordable housing stock.

Thank you, Mr Chair, for your time.

The Chair: Thank you, Mr Bryant.

We'll call the applicant and those representing—

Mr Kells: Mr Chair, may I just ask one question?

The Chair: Sure.

Mr Kells: Thank you, Mr Chair.

Just for a point of clarification, obviously you support the bill. Is that the position of the Liberal Party?

Mr Bryant: The answer is yes, and I'm sure that David Caplan, our housing critic, will speak to that as well. But the answer is yes, we support this bill.

Mr Kells: That's all I need to know.

CITY OF TORONTO

The Chair: I call the applicant and those representing the city of Toronto. For the purposes of Hansard, please introduce yourselves.

Mr Brad Duguid: Thank you, Mr Chairman. I'm Brad Duguid, councillor, Scarborough Centre, and the chair of the community services committee. I'm joined by Councillor Joe Mihevc. I'll introduce our staff a little later in our presentation. I understand you're stuck on time, which we're used to at committee ourselves, so we'll go as quickly as we can through our presentation.

Members of committee, this is no ordinary bill. It has the overwhelming support of Toronto city council and our residents. This is not, as the previous speaker indicated, a partisan issue in any way, shape or form. Given the fact that the demolition of rental housing has been a serious concern in Mr Bryant's riding, he's kindly agreed to table and introduce this bill for us, but there's no reason why all members of the Legislature should not be supporting this particular request. In fact, any member of the Legislature who has any inclination to try to reduce the problems and the stresses that are occurring right now in the homelessness and housing issue really should be helping us and supporting us in this effort.

The reason the city of Toronto needs this bill is that we need a tool which would let us deal with what is really a uniquely Toronto problem, so far anyway, and that's the demolition of existing rental housing. In the three years since 1998, there have been six applications to amend the official plan which would lead to the demolition of 1,000 units of rental housing in our city.

We can't afford to lose those units, plain and simple. This represents more than three times the number of demolitions in the previous seven years combined. So we've got a serious problem here. It represents more than 30 times the number of rental units that we've been able to build in the last year. We've only been able to build 30 private rental housing units in Toronto in the year 2000.

We're a little more optimistic about the year ahead. In partnership with yourselves and the federal government, we think we can move ahead, but we've still got a lot of work in front of us. Frankly, without this support, without this help from Queen's Park, for every step forward we take, we'll be taking two steps back. That's what the problem is, and that's why we're here before you today.

I want to make something else clear, and that's that the intent of this bill is to help us regulate demolitions; it's not to stop demolitions or stall redevelopment. Redevelopment is important. Redevelopment of our housing stock is extremely important. In fact, in the housing portfolio, much of which we inherited from Queen's Park some time ago now, we'll be looking to redevelop our own housing stock. We may be looking to demolish some of our housing stock and replace it with new and better units. So if you're of the view that this is a way of stopping or delaying demolitions, that is certainly not the case. This bill would simply help us as a city grow in a smart way, and it's important that we do grow in a smart way. If it's not smart growth, we may end up with less affordable housing at the end of the day than we have now, and that's not going to help any of us.

I've skipped through as quickly as I could because I know you're short on time. I'm going to pass it over to Councillor Mihevc now to say a few brief words, and then we'll pass it over to our staff to say a few words as well.

Mr Joe Mihevc: I'm going to give the human side of this story. The numbers only tell part of the story. As Councillor Duguid has said, I've seen first-hand the human cost that rental demolition applications can have. These impacts start long before the wrecking ball begins its work.

Back in 1999, the first of these applications for demolition occurred in my ward at St Clair and Bathurst, at 310 and 320 Tweedsmuir. Now, 310 and 320 Tweedsmuir, just to describe it a little bit, has two rental buildings with 249 units. Most of the rents were affordable, and most of the tenants were seniors on fixed incomes. Some were in the building since the building was opened. As a little side anecdote, it was Colin Vaughan who, in his architect days, designed that building, and it eventually was built in the 1960s. But don't hold it against us.

Mr Kells: That might be a reason to tear it down.

Mr Mihevc: OK, I withdraw that comment.

There were a number of residents in that building who were seniors. There were quite a few Holocaust survivors there. The landlord decided there was more money to be made from tearing the perfectly good building down and building expensive condominium units. This set off a chain of events, including an OMB hearing, and that

changed everything for the tenants. Tweedsmuir was the first, and five more applications followed.

What I want to make clear to you is that this is not housing that needed to be demolished. People were living in it, and the buildings were in quite a good state of repair. They did not need to be wrecked. It's just that with the land values so high, especially at that intersection, and with so much money to be made in building condominiums, some landlords would rather demolish perfectly good housing than retain it.

Although the Tweedsmuir tenants will lose their homes and the city will lose desperately needed rental housing, at least the OMB member decided to do something to control the damage. In this particular case, the OMB member used section 37 of the Planning Act to require that some rental housing be replaced at affordable rents. If the landlord decides not to ask for more height and density on the site or if it can't be approved because it's bad planning, we can't use that section 37 to offset the damage, so we're stuck.

We're planning a new official plan, and we want to identify areas for greater intensification to encourage more housing. But if we do that, we lose our ability to manage rental demolitions to ensure that we're not worse off than we were before.

We want smart growth; we're committed to that as a city. But it's not smart to lose perfectly good rental housing or to force people out of their homes.

Before I return the mike to Councillor Duguid, I want to thank MPP Michael Bryant for assisting the city by introducing this private member's bill on behalf of the city of Toronto. Thank you, Michael.

Now I'll hand it back to Councillor Duguid.

1020

Mr Duguid: As quickly as possible, I will introduce you to the staff who are here with us today. We are joined by Wendy Walberg, municipal lawyer. She's going to give you an overview of the act. We have two senior policy planners here from the city, Katherine Chaislett and David Spence. As well, we are joined by Sean Goetz-Gadon, special adviser, partnership development support for the city shelter housing and support division.

Ms Wendy Walberg: Good morning. I'll start by giving an overview of the bill. Rental housing demolition generally requires both a demolition permit under the Planning Act and an additional permit under the Building Code Act. The city of Toronto cannot require replacement housing as a condition of either of these permits, and it is this power that Toronto city council is seeking. Toronto is not seeking the power to prohibit demolitions; it is seeking the power to regulate them. The purpose of regulating is so that rental housing supply will be maintained.

If the private bill is enacted, I'll give you an example of how it might work. If someone owns a building with 10 units but the zoning for that building permits a building five times that size on the site and the owner wanted to demolish the existing building and construct a

building five times the size, Toronto would have to approve the demolition. The approval would require that the new building contain 10 replacement units. City council might also attach some complementary conditions to the approval. For example, they might require that the 10 units be of the same size, approximately the same rent, the same unit type and that the existing tenants be given a right of first refusal. But this would just be for 10 units, not 50, because this is just for replacement housing. That's one example of how the bill might work.

More generally, the bill would grant Toronto city council the authority to pass a bylaw requiring council approval of any rental housing demolition. This additional application process could proceed in tandem with other municipal approvals so as not to create delay.

Demolition is defined broadly in the bill to include building alterations that would reduce the number of rental housing units, but might not necessarily involve demolishing the whole building. Small buildings would be exempt.

The legislation would require council to impose a requirement for replacement units and council could also impose complementary conditions, which I have already addressed. Once approval was granted under this bill, demolition permits under the Building Code Act and the Planning Act could also be granted. An appeal from the decision of council could be made to the Ontario Municipal Board, and the municipal board could make any decision that council could have made.

The city's bylaw would become inapplicable when the vacancy rate would return to 2.5%, which is considered a healthy rental market.

There would also be some exemptions from the approval process, such as demolitions required by law and housing exempt from the Tenant Protection Act.

That's a general overview of the bill. There are two questions frequently asked about the bill that I think merit a few words. The first is how this application relates to the city of Toronto's official plan amendment number 2. The answer is that they deal with different aspects of the same problem.

Official plan amendment number 2 deals with planning applications to the city of Toronto that would involve demolition or conversion to condominium of rental housing units. The proposed special legislation would address situations where there is no planning application before the city of Toronto, but rental housing demolition is proposed. In these situations the city of Toronto lacks the power to require replacement housing units.

Official plan amendment number 2 has been appealed to the Divisional Court and no decision has been rendered at this time. It's been suggested that decision might somehow relate to this application, but actually it won't. I can say that because leave to appeal was granted on three grounds, so we already know the three questions the Divisional Court's decision will answer.

The first question relates to the Ontario Municipal Board's jurisdiction to determine whether municipal by-laws are legal. The second question deals with municipi-

palities' authority to pass official plan policies. The third question deals with whether official plan amendment number 2 conflicts with the Tenant Protection Act. I'll explain the reason this third question does not relate to this application.

Municipalities can only pass a bylaw where there is clear authority from the provincial Legislature to do so, and this third question is a way of determining whether city council has authority to pass the bylaw adopting the official plan amendment. Put another way, the third question is, did the provincial Legislature really intend for the municipality to have this power? With this application before you, the city of Toronto acknowledges its lack of power to regulate rental housing demolition where there is no planning approval required. It is asking the Legislature to pass special legislation that would give it the necessary power.

This ties in with the second question that has often come up in relation to our application, which is how the application relates to the Tenant Protection Act. The answer is that they deal with different subject matter. The Tenant Protection Act addresses the rights and obligations of landlords and tenants. It does not deal with the problem of reduced rental housing from demolitions. That's what this bill would deal with. The bill would complement the Tenant Protection Act. The Tenant Protection Act requires landlords to obtain municipal approvals before giving tenants notice that the landlord will terminate a tenancy for demolition. The proposed special legislation would add a layer to the municipal approval process, but it would not interfere with the Tenant Protection Act process because that happens after the municipal approval process. The bill incorporates definitions and exemptions from the Tenant Protection Act and would complement the Tenant Protection Act process.

In closing, I would like to highlight the reason Toronto is asking for special legislation. According to a survey conducted by the province, Toronto is alone in having a very serious problem with rental housing demolition. While the Legislature may not be inclined to support general legislation permitting municipalities to regulate rental housing demolitions, the city of Toronto is requesting your support of its application for this private bill to address Toronto's unique and very serious problem.

The Chair: Thank you very much. Questions from the parliamentary assistant?

Mr Kells: If I may, I'll speak to you, Councillor, and you might ask the staff to answer if you like.

First of all, I would like to point out that the position of the government on this matter has been that it's a bit premature to be here. We have been hoping to have a decision from the Divisional Court that might cast some different light on the situation. Nevertheless, we are dealing with the obvious: it's here.

I have a couple of questions. First of all, should your appeal win at the Divisional Court, what effect—I know

your council has sort of skated around that—does that have on your bylaw?

Mr Duguid: Since it is a legal question, I'll let our legal person answer that, but in terms of the issue of being premature, we're losing housing rapidly. We mentioned some of the numbers. Since 1998 we've lost more than we did in the previous seven years. So time is of the essence and it's important that we stop the hemorrhaging now. But I'll let legal counsel answer that.

Mr Kells: Possibly the judge should know that too.

Mr Duguid: He heard it in September.

Ms Walberg: They would work together.

Mr Kells: Which one would take precedence?

Ms Walberg: It wouldn't be necessary for one of them to take precedence. One set of replacement housing would be required. In terms of how an application would be processed, I may ask for some assistance from planning staff.

The Chair: Introduce yourself, please.

Ms Katherine Chaislett: My name is Katherine Chaislett, senior planner. OPA 2 deals with situations where you have a heightened density increase being requested under section 37 of the Planning Act. In OPA 2 it says that, where there's a demolition, we seek to have replacement rental housing of a similar size, similar type and similar rent, and may have other provisions. So that only comes into effect when they want more height and density on the site than the official plan provision.

This is complementary because it deals with cases where you would have no application. Now, if you had both going on at the same time, the private bill looks at 100% replacement of the rental stock, but the aspects of it that deal with similar rents and dealing with similar size and right of first refusal for tenants are optional, and those are things that are discussed separately. Under OPA 2, those are requirements. So the two are meant to dovetail together so we don't have a conflict between them.

1030

Mr Kells: Question 2: what happens if you lose the Divisional Court appeal? How does that affect your bylaw? Your bylaw stands alone, is that correct?

Mr Duguid: Yes, I would expect it would make the bylaw ever more important, but if legal staff want to add—

Mr Kells: Finally—these are just clarifications from the government's point of view—under “definitions,” under “regulated building,” does this definition include a house with one basement rental unit?

Mr Duguid: My understanding is it does not, but I'll—

Ms Walberg: The bill would exempt buildings that have fewer than six units.

Mr Kells: We just wanted clarification. Under section 5, it reads there is “No appeal...with respect to the alteration or demolition of a regulated building.” In other words, if the applicant is turned down, he has no right of appeal?

Ms Walberg: There's a right of appeal of the city's decision to the Ontario Municipal Board.

Mr Kells: That's what that means?

Ms Walberg: Yes, there is a right of appeal of the council's decision to the Ontario Municipal Board.

Mr Kells: I guess that's what we wanted clarification on, because on section 9, if a tenant is on the other end of a demolition applicant, he can appeal to the OMB. So it works both ways. Under section 5 and under section 9, if the applicant loses, he has right of appeal. On section 9, if a tenant feels that he has lost, then he has right of appeal. That's your interpretation of the bill?

Ms Walberg: Certainly, yes.

The Chair: I've got four members who want to ask questions; I've got 14 deputants. If people want it done today, I remind you about that.

Mr David Caplan (Don Valley East): I read section 5 of the act, which the parliamentary assistant alluded to. I see absolutely no language in there that says there is no appeal, so I don't understand that question, first of all. I want to ask you about sections 9, 10 and 11, which expressly say that there is a right of appeal to the OMB. Can you perhaps elaborate on why you built in this safeguard?

Ms Walberg: Generally, municipal planning approvals can be appealed to the Ontario Municipal Board, so the intention was to be consistent.

Mr Caplan: So this is consistent with all the other planning legislation?

Ms Walberg: Yes, it is.

Mr Caplan: Wonderful.

I have one other question. Back in 1987, I believe, the city was given, through special legislation, demolition control of particular properties. Is that correct?

Ms Walberg: The city has special legislation that permits it to delay demolitions for one year within the geographic area of the former city of Toronto only. That hasn't been extended to the other areas.

Mr Caplan: In fact, over a dozen other municipalities have applied successfully to this committee for similar legislation giving municipal councils regulatory ability over demolition of heritage and historical properties. Is that correct?

Ms Walberg: I'm not actually familiar with what the other municipalities have done, but Katherine may be.

Ms Chaislett: No, I'm not familiar with their activities. I do know that Ottawa has a similar policy for OPA 2, but other than that, I don't know.

Mr Caplan: Perhaps I'll be able to get into this in debate, because this is an indisputable fact, that this committee has granted or approved those kinds of applications from over a dozen different municipalities across Ontario. From my perspective, I see this as being very much in line with giving a municipality the ability to decide the character and nature of its community and its neighbourhoods.

Mr Prue (Beaches-East York): My question relates to the powers of the OMB in section 11. The limitations—actually there are no limitations. It says, in subsection 7(2), “Without limiting the generality of subsection (1), the conditions that may be imposed,” and

it goes on to list what those are. They are all "may." The power of the Ontario Municipal Board, and I just want to clarify this, is that they may take any or all of these. So if the city were to say, as an example, that the replacement rental units remain as rental units for 20 years, you're granting the Ontario Municipal Board permission to take all of that out, and all of any other conditions, in effect, literally doing nothing with it in the end.

Ms Walberg: The conditions listed in section 7 are discretionary. The municipal board would also have discretion with respect to those types of conditions. The one mandatory condition is replacement housing. So the city of Toronto would have to require replacement housing, and so would the municipal board.

Mr Prue: If you look at subsection 7(2), paragraph 1, it clearly says there "and that the replacement rental units must be available for approximately the same rent as the demolished rental units." Is that the one you're talking about?

Ms Walberg: Actually, you're quite right. The examples of optional conditions are listed in subsection 7(2). Earlier in the bill—it's subsection 2(3)—it says, "The bylaw shall provide that an applicant for approval shall be required to construct approximately the same number of rental units as the number that will be lost." So that's a condition of approval that council would be required to impose.

Mr Prue: And the OMB as well?

Ms Walberg: As well, yes.

Mr Bryant: I just want to address this prematurity question head-on. I don't know a single legislator or a single judge who believes a judge-made solution is preferable to a solution hammered out by democratically elected MPPs and councillors, number one.

Mr Kells: That was a point we made, by the way.

Mr Bryant: But you said it was a premature.

Mr Kells: We would like to see the decision, that's all.

Mr Bryant: OK, the decision comes down. It starts a dialogue between the courts and the Legislature. What we're saying here is, let's get on with this dialogue now. We're going to have to come back after the decision, and again the city is going to say, "This is what we think are the powers the city should have." If all the decision is going to do is strike down the bylaw, which is of course going to result in appeals, in which case we'll be back here again after the appeal process is all done, then why not get on with this now? Let's face it, this is costing the city of Toronto a lot of money to litigate. Instead, we can deal with this right now, and that's the point of the private bill, to deal with it right now. C'est tout.

Mr Kells: There's a risk involved in that, you know.

Mr Mike Colle (Eglinton-Lawrence): I remember sitting here in 1997 with the Minister of Housing, Mr Al Leach, when he was telling us to pass the so-called Tenant Protection Act, swearing that passing that bill would result in the building of a flood of affordable housing. For the record, I'd like to know, since 1997, since Mr Al Leach's bill was passed, how many afford-

able units have been built in the city of Toronto, approximately?

Mr Duguid: I can tell you that last year there were 30 built. I think the year before there were zero built. Do we have an exact number since 1997?

Ms Chaislett: It was 30 last year; I believe it was roughly 300 before. But your question was affordable rental units.

Mr Colle: Yes.

Ms Chaislett: The information we're receiving is that none of the new rental units being built is affordable. The prices we're being given—

Mr Colle: So basically nothing since 1997?

Ms Chaislett: There's nothing. We have some shovels in the ground.

Mr Colle: I have another question. How many have been lost by demolition or conversion? I know in my own riding Rosewell Court has gone; Cheritan is on the block. How many have been lost?

Ms Chaislett: It's roughly over 1,000 that are subject to it. I can give you the exact numbers, if that would be helpful to you.

Mr Colle: How many active applications for demolition or conversion are before city planning?

Ms Chaislett: In terms of demolition, the active applications are for Sheridan and Cheritan/Chatsworth. We have a pre-hearing next week on that and we go to a hearing in February. In terms of condominium conversions, we have four applications affecting 1,203 units, and a further application has been made for 500 units, and then various other scattered units.

Mr Colle: So basically the deficit is about 5,000 potential units and nothing's been built.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Very briefly, as I listened to the discussion and some of the questions raised, I am of the opinion that this is about risk taking and risk management. There's a difference. If we sit around and wait for the courts to interpret what people can't do, we're not going to move ahead on this important issue. What I think I heard Mr Bryant saying, or maybe I'm reading between the lines, is that as important as interpreting the law is, what's more important is writing laws that make sense. Is that the fundamental position of the group here, that you want to have the enabling legislation to enable you to do what you think is right?

Mr Duguid: Frankly, no matter which way the court decision goes, this bill will help us. We're less concerned about what direction the court is going to go on this than we are about getting this in place so that it does fill that gap we can't deal with right now.

Mr McMeekin: This group isn't here to point fingers; they're here to point direction. I think that's what the committee should remember as we listen.

The Chair: Thank you, applicants from the city of Toronto.

1040

GREATER TORONTO APARTMENT ASSOCIATION

The Chair: We'll move on to the deputations. Just to remind the deputants, there are 14 of you. Next week we have a very full agenda, which means we're not likely to get to this matter unless we finish it today. So I urge those of you who want this to be dealt with today to keep your comments brief. I'll call upon Brad Butt, executive director, Greater Toronto Apartment Association.

Mr Brad Butt: Good morning, Mr Chairman and members of the committee. The Greater Toronto Apartment Association is a not-for-profit industry association representing more than 220 companies that own and operate over 160,000 private rental apartment units across the greater Toronto area. Many of our members have owned their properties for decades and have taken pride in their real estate investments. They are very concerned about this private bill and they ask you to vote against it.

For more than 20 years, the private rental housing industry has operated under the most draconian landlord-tenant legislation in North America. When rent control was introduced in 1976, the world was a much different place and the condition of private rental housing considerably better because, obviously, it was newer. From 1976 to 1998, with the proclamation of the Tenant Protection Act, government after government continued to make the operation of rental housing more and more difficult. Regulation after regulation, statute after statute, the red tape and the total denial of private property rights was the action of the day.

When the current government was first elected in 1995, it made a commitment to a fairer and more balanced approach to the landlord-tenant relationship. The Tenant Protection Act was the result of months and months of consultation, deliberation and consideration, and in fact neither side got all that it wanted. Some governments will tell you that if neither side is happy, you've probably struck the right balance. The Tenant Protection Act represents real balance, and let me tell you why.

First and foremost, like every other piece of landlord and tenant legislation that preceded it, security of tenure for every tenant in this province continues to be paramount. The right to obtain an eviction continues to be for only a very few specific reasons, such as non-payment of rent. In fact, the statistics show that 87% of all evictions in the province continue to be for non-payment of rent. That was the case before the TPA and it still is today.

Second, the obligation on the landlord to provide decent, safe and well-maintained housing has not diminished one bit as a result of the TPA. In fact, generous abatements of rent have been awarded to tenants who have disputed a landlord's record of maintenance. This is an improvement for tenants from

previous legislation, where only an order prohibiting a rent increase could be sought, and not a rent reduction.

Third, rent control has not been eliminated in Ontario. That is a fallacy. Every tenant who stays in his or her home continues to have full market rent—full rent control protection. Only a vacated unit can have a new market rent negotiated, and that new rent is again subject to full rent controls. This is the truest example of balance in protecting sitting tenants while allowing the marketplace to play a role in a new tenancy.

But this morning I am here to specifically address the issue of rental housing demolition and, subsequently, conversion down the road that this private bill seeks to regulate.

When the Tenant Protection Act was proclaimed, it abolished several pieces of legislation previously on the books. One of those was the Rental Housing Protection Act, which gave municipal governments the right to pass judgment on applications to demolish or convert rental housing to condominium status. In its place, through sections 53 to 56 of the TPA, the rules governing demolition or conversion are clearly stated, the required compensation to an effective tenant defined and the first right of refusal to reoccupy or purchase a converted unit entrenched. These rules are some of the most generous in the country.

There was a reason for this. It didn't happen by accident. The Minister of Municipal Affairs and Housing of the day, the Honourable Al Leach, wanted to ensure that by permitting demolition or conversion, a tenant's rights were respected and compensated, as a party affected by the demolition. Therefore, the minister's intent was clear: municipalities no longer had the power to regulate rental housing in this area. The attempt to do so today, through the back door, is an affront to the provincial legislation and should not be approved.

The city of Toronto has tried, thus far unsuccessfully, to rewrite the Tenant Protection Act through the passing of official plan amendment number 2. OPA 2 was ruled illegal and invalid by the Ontario Municipal Board last year and an appeal has been heard at Divisional Court, with a reserved decision. At the same time, the OMB and Divisional Court have ruled on a demolition application referred to as the Rosewell case and have approved a demolition application which the city opposed. Therefore, to pass this bill would in effect be approving a piece of legislation that is now deemed illegal.

Moreover, the city of Toronto council has a tendency to speak from both sides of its mouth. The chief planner, Paul Bedford, has released a draft new official plan and vision that sees another one million people living in Toronto. Quite frankly, I think that's exciting and I think it's a shot in the arm that Toronto badly needs. Only one question: where are these people going to live? To accommodate another one million residents, it means you have to tear down some older, smaller buildings to allow for new, larger buildings to be built. If you disallow, as of right, all demolitions, the city's own plan cannot be met. In this case, the city needs the province to help them attain their own goal that they have set.

Finally, I want to address the issue of the difference between demolition and conversion. I realize the private bill deals with demolition, but it's a slippery slope to the conversion side. I sometimes wonder why they are lumped together, like they were in OPA 2, because they do have different consequences under the TPA.

A demolition, by its very nature, is clearly finite. You are taking down an existing building and you are constructing a brand new one. The business case for this is often difficult and therefore the number of sites where this makes sense will not be many and will likely have special and unique circumstances. Planning staff at the city needs the flexibility to work with a proponent, but under this bill they would be virtually precluded from even discussing it unless the very stringent criteria concerning vacancy rates and rent levels are met. It is not good planning policy.

Quite frankly, I think the main reason why the city of Toronto is opposed not just to demolition but to condominium conversion has little to do with protecting tenants and the rental housing stock and has a lot more to do with the fact that they tax apartments at four times the rate of condominiums. Protecting a lucrative tax discrimination policy, I believe, really drives the city's policy here.

Members of the committee, this is bad legislation. It attempts to hijack the Tenant Protection Act, not enhance it. It gives Toronto powers no other city has and it strips private property rights. It will lead to a deluge of similar bills from other cities, ultimately gutting the provincial statute. On behalf of the members of the Greater Toronto Apartment Association, I would ask you to vote against Pr22.

The Chair: Questions?

Mr Caplan: Thank you, Mr Butt, for your presentation. You mentioned private property rights a couple of times in your speech. Are there any protected or guaranteed private property rights in the Constitution of Canada or any other legislation that you're aware of?

Mr Butt: I'm not a lawyer but I don't believe there's protection in the Charter of Rights for private property.

Mr Caplan: You also mentioned in your comments that this would disallow all demolitions. Would you please cite for me the section where that would be the case?

Mr Butt: Let's face it: with all due respect, Mr Caplan, with the vacancy rates and the rent levels that are deemed by CMHC or the city to be average, acceptable rates, they would almost virtually preclude any demolition in the city.

Mr Caplan: So you're supposing here, but there is nothing specifically in the legislation which would disallow all demolitions, as you mentioned in your comments.

1050

Mr Butt: Not specifically in the wording of the bill, but in the action of the city, clearly, every demolition virtually would be banned.

Mr Caplan: One final question: in your opinion, do you believe that the city should rightfully have some ability to decide the character and the nature of the city in the various neighbourhoods that make up the city?

Mr Butt: As far as issues surrounding the look of buildings, surrounding the density of buildings, there's no question about it. However, to confer an exclusive right on the city of Toronto to ban all demolitions is self-defeating.

Mr Caplan: But that's not what's in this bill.

Mr Butt: No, it is. This bans all demolitions. I don't care how you read into it, it bans all demolitions, because the bar is too high to meet the criteria.

Mr Wayne Wettlaufer (Kitchener Centre): Mr Butt, I come from a riding, Kitchener Centre, which has a higher percentage of tenants than the municipality of Toronto does and I am very concerned—and I say this to Mr Bryant as well—that this private bill would be the beginning of a slippery slope. I have great concern that the same doggone thing could happen in my own municipality, in my own riding.

What would be the effect on a landowner who owns the building, who has owned the building for perhaps 10, 15 or 20 years, and now finds that through the bylaw he would be unable to demolish a building and increase his investment? What would be the effect on him or her?

Mr Butt: Obviously, there would be an economic effect and how you would measure that is certainly a very good question. Each building would be different. It would depend on the size of the building and the location of the building in relation to its market value.

The point I'm trying to make is that there are legitimate cases that would not meet the threshold established by the city that would be excellent candidates for redevelopment, and despite Councillor Duguid's comments about the city wanting redevelopment, this effectively shuts it down. What would happen is that would obviously affect the market value of the property. The building would continue to be maintained but I certainly wouldn't think you'd see tremendous enhancements being made to the building, which was one of the goals of the Tenant Protection Act, to provide a vehicle for private owners to reinvest, and they have reinvested millions of dollars in the housing stock as a result of it. A lot of that would be lost.

Mr Wettlaufer: I want to make it clear just for everybody here, I am a tenant. Thank you.

Mr Gill: Thank you for your presentation. I'm getting conflicting signals. I'm hearing from you that no other similar legislation exists in any other municipalities or cities, and I heard from Mr Caplan earlier on that it does exist. Can I please get some clarification?

The Chair: Municipal staff, perhaps?

Mr Kells: I'm not sure what the thrust of your question is—

Mr Gill: I thought Mr Caplan knew that it existed. So I'd just like to get—

Mr Bryant: Wouldn't they be here if it existed? Obviously, it doesn't exist.

Mr Butt: I think Mr Caplan was talking about heritage buildings, were you not? Right.

Mr Caplan: Municipal power.

Mr Butt: Which is under the Ontario Heritage Act, though.

Mr Gill: So it does not exist anywhere else. Is that what I'm hearing?

The Chair: Would you like to comment? Please come to the mike.

Mr Jim Miller: I'm Jim Miller, with Municipal Affairs and Housing. Under the heritage act you're not allowed demolition. Other than that, there's no—

Mr McMeekin: For designated buildings.

Mr Miller: For designated buildings, right.

Mr Gill: It does not exist?

Mr McMeekin: Under the heritage act you can't demolish a building that's designated as a heritage building.

Mr Gill: That's entirely different.

Mr McMeekin: It's completely different.

Mr Gill: So it does not exist, the way I take it. OK, thank you.

The Chair: Seeing no other questions, thank you.

ADVOCACY CENTRE FOR TENANTS— ONTARIO

The Chair: We'll call on Kathy Laird, director of legal services, Advocacy Centre for Tenants. Please go ahead.

Ms Kathy Laird: I dutifully cut out large parts of my remarks and then I heard Mr Butt speak and I started writing them all in again. So I have a lot of scribbles here and I'm going to do the best I can.

The name of my organization is the Advocacy Centre for Tenants—Ontario. I just want to tell you that that's a new legal aid clinic just established by Legal Aid Ontario in recognition of the crisis facing tenants and low-income tenants in Ontario today.

We are currently intervening in the matter that was mentioned earlier, the Cheritan/Chatsworth matter that involves 156 affordable units. I think it's in the riding of one of the MPPs who spoke earlier. We'll be intervening on behalf of the Federation of Metro Tenants' Associations to try to save those units.

The city of Toronto has presented well-documented evidence demonstrating the need to have this bylaw authority, in our view, to regulate the continuing loss of affordable units. I would ask you to consider this legislation in the context of the tremendous increase in tenant evictions that we've been experiencing in Ontario since the proclamation of the Tenant Protection Act. Tenants have been evicted in record numbers by the Ontario Rental Housing Tribunal. Between 1997 and 1999, the increase in eviction applications was 23%. That's a very significant figure.

Where do these evicted tenants go after the sheriff changes the locks? Well, if they can't find an affordable unit, they end up in hostels or on the street or sometimes

moving back in with families when they didn't want to do so. That obviously leads to great social costs, not to mention the costs for the tenants themselves. That's the real trickle-down effect of these policies. It's a trickle-down of dislocation and despair as tenants lose affordable units through demolition or conversion and then compete with other tenants who have fallen behind in their rent payments through a variety of unexpected financial circumstances. And the amount of arrears is, in 80% of the cases, less than two months. It's a small amount they're out and they're competing for a dwindling stock.

Earlier, Mr Butt mentioned the repeal of the Rental Housing Protection Act and characterized this as an attempt to go in through the back door. He's misstating the intentions of the government in enacting the Tenant Protection Act and repealing the Rental Housing Protection Act. As an MPP mentioned earlier, Al Leach at second reading spoke to the protections in the official plans of municipalities and recognized that there was control over the loss of units in those official plans, and that those official plans would continue. Our position is that the OMB decision in the Goldlist case is simply wrong in law and when it goes to the Court of Appeal, as I expect, we will be there.

I had written down the vacancy rates; I had stats on the failure to build new units, but that has been covered. I looked at the affordability gap in Toronto. The last figures that were available were 1999. There was an almost \$200 gap between the median tenant household income and the average rent for a two-bedroom apartment in Toronto. Since then, the average rent for that two-bedroom apartment has gone up each year. In 2001 it went up by 4.1%, and you can compare that to the CPI, which was only 2.6%. In order to rent the current average two-bedroom apartment in Toronto at \$1,027 a month, a family would have to earn over \$41,000, and we know that the median income is at least \$10,000 under that.

Toronto needs to have the tools that this bill offers. Our organization had also recommended that the Municipal Act be amended to give all municipalities the power to control the loss of affordable housing. Those amendments and the ones of the opposition parties were defeated. We need this legislation now because of the crisis situation in this municipality in particular, and I hope that you'll vote to support the bill.

The Chair: Any questions? Seeing none, thank you very much, Ms Laird.

FEDERATION OF METRO TENANTS' ASSOCIATIONS

The Chair: We'll call Dan McIntyre, project coordinator, Federation of Metro Tenants' Associations.

Mr Dan McIntyre: Good morning, committee. I'm going to be quick, and, unlike the landlord beneficiary of the TPA, I'll come right to the point. We're for this legislation. Why not give the city of Toronto the re-

sponsibility? You did it with social housing; why not do it with this issue? I'm here to talk about the tenants who have been facing this and to support them, several of whom are here—tenants from Brentwood Towers, Ross Skene from Cheritan, and several others.

Our team has been to over 300 buildings in the last year in Toronto and they ask us the same question—not in the same words, necessarily: “Are we next?” I say to you, let the city of Toronto answer that question. Give them the responsibility. You can do that by supporting this bill.

1100

The Chair: Questions?

Mr McMeekin: Yes. I'm intrigued with this because it occurs to me that at the time of the who-does-what-to-whom hearings and the decisions about off-loading, the rhetoric then was that the local municipalities could more quickly and comprehensively understand the needs in the social housing area; that this responsibility should be handed off to municipalities; that the provincial government was looking for partners to walk down this road to adequately house people. It seems to me that the presenter has just redrawn our attention to that and left us with the fundamental question, are we actually prepared to practise what we've been preaching? Would that be a fair characterization of what you've said?

Mr McIntyre: I'm saying there are tenants out there who want this bill passed and I hope it's done by noon today.

Mr Kells: I like his version better.

The Chair: Thank you very much.

LINDA MILLER

The Chair: I call upon Linda Miller, please.

Ms Linda Miller: Good morning. I'm going to be brief. I'm just going to read what I jotted down. Some of it has been covered, but I'd just like to give you a brief picture of what has happened to one working person living in Toronto for the last five years.

This person has been thrust into an uncompromising situation through no fault of his or her own. This person became unemployed four years ago from a company that closed its doors. After using severance and not finding a job before that ran out, this person moved twice to reduce costs. The move to the present location, midtown, into a bachelor apartment, with possessions in storage, was unsatisfactory due to space and roaches—yes, in midtown Toronto, one block east of Upper Canada College.

Then this person moved to the next building on the complex into a one-bedroom apartment, reducing storage costs by bringing the stuff into the apartment. This was the least costly way to eliminate some of these problems and the cost of movers. However, this landlord has gone to the tribunal each year to increase rent above the guideline. Therefore, this rent has gone from about \$600 per month under the Rent Control Act, when the apartment was first taken in possession, to \$1,100 per month in a three-year period. That's an increase of \$500 or more a

month from someone who is essentially unemployed. This was a professional person who is now joining the people on the street, possibly, in the near future. As you can clearly see, this person has been thrust into an uncompromising situation. The housing situation today is impossible because of the ability the landlord now has to exercise his greed based on any flimsy repair.

Housing stock has declined and is unaffordable for many, not just the disadvantaged. We can't afford to remove anything from the present stock through conversion to condominium, as in Brentwood Towers, this application that is going before the OMB next year, or demolition. I urge you to vote to support this private bill to return the control of rental issues to the city, to our elected councillors.

The stated example is myself, as I'm sure you can gather, but it's an example of many similar situations for those with limited income, such as people on pensions, or no regular income, and one cannot address the job market with chaos on the home front. The current situation is denying many people one of the more important conditions of the lease: the quiet enjoyment of the premises.

That's all I'd like to say, but I'd like to make it clear that there is no choice for people on limited income when a conversion or a demolition takes place. This bill is for an interim period of time. It's to give us time to come to a better solution. It's not preventing demolition altogether, or building this city. But the city is disappearing. The historic points are disappearing at present. That is another issue, but I would just like to state that the situation is in crisis.

ST CLAIR-CLOVERHILL TENANTS
ASSOCIATION

The Chair: I call upon Rosemary Helmer, president of St Clair-Cloverhill Tenants Association.

Ms Rosemary Helmer: Good morning, ladies and gentlemen, members of the committee. I have prepared text for you. If you don't have time to read it now, you can follow with me and I hope you will read it later. Although I'm going to skim through it, I think it has great merit.

I come before you as an individual who teaches in a faculty of business, has taught for many: Ryerson, U of T, George Brown College, Sheridan. I come before you as someone who has worked for major corporations: Procter and Gamble, Canada Packers, the Bank of Nova Scotia; and also as someone who runs a small marketing business which is dependant for cash flow on our operations. So I understand the business world fairly well. I also have owned property. I am currently a tenant in Toronto. I am president of the St Clair-Cloverhill Tenants Association.

Thank you for the opportunity to make you aware of the interests and very real concerns of Toronto tenants. These are the people whose rents pay the mortgages of the developers and apartment building owners.

The St Clair-Cloverhill Tenants Association, incidentally, is made up primarily of tenants of senior age, limited means or part-time incomes who have been long-term tenants of the St Clair area bounded by St Clair, Russell Hill Road and Parkwood Avenue. Our tenants have resided in the same building for 15 to 40 years, a period which represents 25% to 50% of their adult life. Here is a very important fact: it is by no small coincidence that the majority of them are women whose historical earning power, at a time when they would have wanted to purchase a house, was insufficient to allow them to qualify for mortgages under historical banking guidelines and whose earnings were far less than those of their male peers of corresponding age and employment status. My generation of women is far better off than these women. For fear of reducing these people to faceless persons, please take note that they are our sisters, our aunts, our mothers and our grandmothers. That's not to negate the fact that there are men of similar age in similar circumstances.

Our tenants, both men and women, support this bill for the following reasons.

Community: in the case of this act, Toronto city hall is given back an ability to be accountable to 50% of its population, the tenants. We believe that municipalities, both elected officials and staff, must have the jurisdiction to look after the citizens who live and work in their community and tax boundaries. Otherwise, there is no accountability to a taxpayer who is a renter. After all, housing decisions impact the lives and well-being of our families, neighbours, friends and associates. Only six degrees of separation or less binds us all and this is what keeps Toronto a friendly, safe and hospitable city and forms the foundation for wanting to live and work here and buy personal or rental housing space. Without this sense of caring, one loses the greatness of community. Everyone affected by the housing crisis is known by someone, and our elected city officials must have the ability to respond to housing issues and circumstances that the community taxpayers tell them are important. We believe that our provincially elected representatives must, and we ask them to choose to, support this bill and allow the municipal level of government the right to deal with major housing issues in the Toronto jurisdiction, Canada's largest city, which regularly draws many to live here.

Crisis: we have a crisis in Toronto. Fifty percent of our electorate rents and cannot or does not own. The rental vacancy rate is less than 1%. In lower Forest Hill and in St Paul's, it's well below that digit. Developers targeting areas are known for picking "location, location, location" and "address, address, address." We will lose our rental housing stock brought to us through the efforts of each of our historical predecessor communities which amalgamated and were sewn together like a patchwork quilt of the smaller predecessor communities and now make up the larger Toronto community of 2.3 million people, a people who live like a big, little city. This history afforded us a mix of housing types in each of the

formerly independent municipalities which are now known as areas of our city; for example, Forest Hill, Deer Park, North Toronto, the Beaches, and you can go on. In each area of the city we need an appropriate blending of rental housing—apartments and townhouses—and privately owned properties of varying sizes: condos, semi-detached and single-family homes. The balance is being dangerously tipped with the elimination of affordable housing, so much so that seniors, students and people who work part-time or are of limited means will be forced to leave the city to take up residence elsewhere or pitch a tent along the waterfront. Can we say this is acceptable? We think not. We care strongly that this not happen, and we hope you will demonstrate with your vote for this bill that you also care.

1110

Livable costs: CMHC standards indicate that a maximum of 25% to 30% of disposable income should be spent on housing. That is the starting point for persons whose mortgages are approved, and that percentage of their income spent on housing will be reduced as their mortgages are repaid through time, meaning for the owner that housing costs get lower for the same space through time. In contrast, for renters the cost of rent rises through time when they stay in the same location, and thus the percentage of their income spent on housing remains constant or increases, particularly if they are able to work only part-time or as they head toward retirement and become retired and must live on fixed incomes. Is this fair and equitable treatment of citizens? Does it respect their right to housing and a home?

To demonstrate how difficult this is, consider the fact that a rental cost of \$1,000 per month for any size of apartment means a cost of \$12,000 per year. Using the lower end of the CMHC standard of 25% of one's income to be spent on housing, this means one must have a disposable income of \$48,000 per annum after tax to afford this unit, which yields a \$70,000 gross income per household. What percentage of Toronto persons earns that much? Statistics tell us the average household income in Toronto is \$62,000 per annum and shrinking. What if you are poorer than the average? Your spending choices become an ugly decision between the basic necessities of life: food, water, shelter and medicine. If September 11 taught us anything, it should be that we have to be conscious of our decisions because they impact on somebody somewhere and we need to be aware of how that impact takes hold.

Today, the OMB is there as an appeal opportunity, and it should be there, but it should be the exception, not the rule. It has become the rule and it's a very expensive process in which the developer has the advantage. They can earn back their costs in a business development; citizens in the municipality can't. They spend their money out of pocket to defend a position and often lose.

The depletion of rental housing stock has been made very clear here this morning, so I won't go on at length. But it is interesting to note that we are approving the building of condos, and yet in statistics released by the

city of Toronto, 26,910 condos are rented. If they are rented, why are we approving condos? Because they have better tax treatment for developers, obviously, but what we really need is affordable housing. People who live in rental environments have the inability to trade up in space, whereas people who own their equity in their homes have the ability to move up to further space if they can afford it. The effects are that renters in Toronto don't feel safe, and are vulnerable in terms of their ability to get equal access to affordable housing costs versus homeowners. Ratepayers in our neighbourhoods know this and support us. In fact, they supported us in our recent OMB situation.

This act, if passed, would require and encourage developers to leave standing affordable rental properties if they were faced with replacing them, or, in the case of downtrodden buildings needing to be replaced, the incentive to build them would be there. Please remember that developers don't belong to neighbourhoods; they intrude into them. They irrevocably change them and leave the aftermath for everyone else to live with while they move on to their next social re-engineering project.

Dr David Hulchanski—and I'd just like to make these my parting remarks—a University of Toronto professor and housing expert testifying as an unpaid expert at the OMB hearings in the spring, made it very clear that the goal of planning is to facilitate land use planning and development in a manner that “does no harm to its citizens” on application. To allow the continued demolition in Toronto of affordable, mature but sturdy rental housing and to permit large-scale evictions to meet developer profit objectives very clearly does harm. We cannot allow this to happen and force hardships upon our neighbours; otherwise, the finger of history will tell a painful story of those who had the opportunity to do something and did not.

I must say the ratepayers in our neighbourhood have stood with us through our OMB ordeal in opposing the demolition of affordable rental units because they realize that at some time someone in their circle of six degrees of separation will need affordable housing and it is comforting to know it is available in the area even if the waiting list is long.

We ask you to vote in favour of this bill and say yes to affordable rental housing in Toronto. I would like to thank you for your time, Michael Bryant for his courage and commitment and the city of Toronto for speaking out and sponsoring this bill. We, the tenants, respectfully ask you to vote yes.

I would like to conclude by just highlighting Mr Butt's comment, that the reason people were evicted was because they didn't pay their rent. It wasn't because they chose to go on a holiday or buy themselves a new wardrobe. They couldn't afford to pay the rent. Thank you for your time.

The Chair: Ms Helmer, I've got questions for you.

Mr Gill: A quick question. You are a business person and you teach business, I understand?

Ms Helmer: Correct.

Mr Gill: Tell me in a nutshell, as a business person, why do you think there's a shortage of rental housing? Why is there not more being built?

Ms Helmer: I think there's a shortage because it is human nature that if you can make more money building upscale housing on a return on investment than you can with rental, you will do that. But it doesn't mean to say that you can't earn money from building affordable rental. It's just not the preferred percentage. There's an obligation, if you build rental, to stay with your investment through time, maintain it and earn your money as you go, which most people do with their income through time. But with development you can go in, in three to five years flip the property, leave it—no obligation. The condo owners' association has to deal with the responsibility of the aftermath of what's left, incomplete building, things that weren't done properly, and you're out of it. You have no liability. You've taken your money and run.

If someone wants a get-rich-quick scheme, they are going to do that first if they can versus earning money through time. There are people who make money in affordable rental properties in this city, and I suspect that Mr Butt represents some of those more reasonable professional people. It can be made. You make it all the way along on a small piece and then you make it big-time when you finally sell at the end of the lifeline that you want to have as an investment in real estate. It's just a case of money. That's what it comes down to.

Mr Wettlaufer: Ms Helmer, I understand the interest of both Mr Bryant and the city of Toronto and your own interest here in trying to keep rents affordable and to protect the tenants. I'm in the position that I can see both sides of this. If I were a landowner, which I'm not, and I were incurring the risks of tying up my money, knowing that market values fluctuate, I would want to say that I'm incurring the risks, that it's my investment. If somebody else wants to come along and regulate it, perhaps reducing the market value of it, I might be inclined to say, “Rather that regulate, why don't you just buy it?” What would be your reaction to that?

Ms Helmer: I'm sorry. The question is that the renter would buy it?

Mr Wettlaufer: No, the municipality. Rather than regulate it, when I'm the one who's incurring all the risk, why wouldn't the municipality just buy the property? They can incur the risk and then they can do with it whatever they want.

Ms Helmer: I can understand that municipalities, because they are funded by taxpayer dollars, do not want to take on the ongoing responsibility. They are not efficient, necessarily, at doing that except in very special cases, perhaps specialized housing for disabled people or seniors of distressed means. But the risk that developers take is no less than the risk that any other business person takes every day.

Mr Wettlaufer: I agree with you there.

Ms Helmer: The pulp and paper industry earns less than 1% after tax and they take huge risks. They grow

wetlands that have to have forests that take 20, 25 and 30 years to mature. Car companies go into redesign of vehicles, not knowing if they will sell. Everyone takes a risk. Why developers feel they need double-digit profits when every other business can't get that makes no sense to me.

Mr Wettlaufer: I'm not suggesting that. Any business person incurs a risk. Personally, I think it's morally wrong for governments to constantly regulate businesses.

The Chair: Thank you, Ms Helmer, for your deputation.

Just to remind people, we've got nine deputants, assuming that all are here. I'd like to end it by 10 to 12, on the assumption that the parliamentary assistant will have some comments, and possibly other members, and then go through clause-by-clause. So the rest of you, if you want us to get through this, limit your comments, please.

1120

WOMEN PLAN TORONTO

The Chair: Welcome, Janet Forbes.

Ms Janet Forbes: Good morning. My name is Janet Forbes, and I would like to thank the committee for the opportunity to make this deputation on behalf of Women Plan Toronto. The committee has already heard about the decrease in rental housing units in the city of Toronto, which moves Women Plan to support the passage of this bill. I'd like to focus my remarks on the needs of women for accessible, affordable housing and the disaster that occurs when homes they have been living in are taken out of the rental market.

The recent United Way report highlights the increasing vulnerability of older women to becoming homeless, and the children's aid society reports point to homelessness in the placement of children in care, over 20% of the cases, and how children remain in care for extended periods because of the inability of their parents to find suitable housing.

The government has prided itself on its focus on doing business and saving taxpayer dollars. Reduction in rental housing in the city of Toronto does not support this program. Without safe, secure housing, it is next to impossible for working-poor families to remain viable in the employment market. Children in care do not thrive, they do not learn and they develop distrust of society in general. Teachers in some areas of the city report that they have turnovers of over 30% of their students in the class during a school year, and they link these turnovers to the inability of single-support mothers to remain housed in the community. We expend tax dollars on improving our education system, we test for these improvements, but as teachers know, no manner of improved pedagogy will be effective in the classroom if it is only a transit stop for children who live in families that are constantly on the move.

A study done by the Older Women's Network points out that over 74% of women living alone pay over 30%

of their income in rent. Without safe, secure housing, elderly women on fixed incomes cannot remain in good health. They do without proper food and medication, they experience mental health problems, and increased stress leads to a multitude of health-related problems which result in hospitalization. The lack of safe housing makes rapid recovery from incidents of illness unlikely.

In addition, this bill would give reassurance to those who live with the day-to-day possibility of their landlord taking advantage of the opportunity to demolish their homes, in which they may have been long-term tenants. For these tenants, this spectre is real. They have been able to maintain themselves due to the affordable rents established through rent controls. When faced with moving and the almost non-existent vacancy market—and even when they can find housing, they will be unlikely to afford it—this becomes a source of ongoing anxiety that leads to many social problems.

For these reasons, the situations are not in keeping with the economic goals of the province. Women Plan believes that any action that maintains the safe, secure rental housing market is a good economic decision for this province, and we would request that the committee do everything they can to support this bill.

CHERITAN MANOR TENANTS ASSOCIATION

The Chair: Seeing no questions, we'll call Ross Skene.

Mr Ross Skene: My name is Ross Skene. I represent the tenants at Cheritan Manor. Some of you may or may not have been reading my newspaper articles that have been around the city. I've been fighting this for quite a while. I'm going to try to make it brief. I'll give you a quick example of what's gone on in our building at Cheritan since rent controls dropped.

I'm going to give you one apartment: apartment 215. This apartment used to be \$725 a month. They put the locks on the doors and wouldn't rent those apartments until rent controls dropped, which they could afford to do. After six months, they re-rent this apartment now at \$1,100 a month. But the two sisters who move in there are told they can't rent that apartment unless they make \$84,000 a year. That's the kind of landlord we have, Russell Masters, the same people that own Rosewell, by the way.

So now that apartment, they were told, was going to be refurbished, redone and all the rest; it never was, so they moved out. Two other fellows have recently moved into that apartment. They now rent that apartment at \$1,300 a month. But it gets better. They put new windows in the building, so now they turn around and say, "OK, we've put new windows in this building and we've also got oil costs from last year, so we are going to take you to the rental tribunal," which we did go to last week, "and we want an 8.65% increase from everybody in the building." For a one-bedroom apartment, we can go from \$700 to \$1,185, and those people, two working people in

their thirties, both with degrees and all the rest, were told that unless they make \$90,000 a year, don't even bother to come back and look at it.

You tell me, if you take that scenario right there, plus the elderly in the building who are paying 8.65% on top of that, then you turn around and you say, "OK. Before, we got a 4% increase to put in fire retrofit and to paint the halls"—the first time in 28 years, and we paid for all of that. We're paying, we're paying, we're paying. Now you're looking at them wanting 8.65% for the new windows they've put in and all the rest. "On December 13, we go to the OMB to tear the building down." So have we seen any of our money's worth out of these windows?

Let's take a look at this. It's a joke at this point; it really is. Those windows would be amortized for 20 years, but instead, now you turn around and you tell me, "OK, you can pay for those windows." Why does he want 8.65%? He wants 8.65% because in two years, that'll pay off the windows, then the OMB will demolish the building and there you go. So what are we doing? We're paying for his demolition.

I support Michael's bill, because if you look at it from this point of view, since he put the sign on the front of the building last year and turned around and said, "OK, we're going to tear the building down," over half the people moved out of the building. He has now re-rented those apartments for \$400 to \$600 more in that year. But now he wants 8.65% on top of that.

Take a look at the figures. And you wonder why we've got homeless people? You tell me how they're going to pay that and you tell me where the elderly go when you take it down. You tell me where the people at Rosewell Avenue, 115 units, same owners, ours at 157, and now I've heard rumours and people are calling me from Clifton Manor over at Branksome Hall, which is another hundred and some-odd units—right there you're talking 1,000 people—you tell me where they're going to go.

KAY GARDNER

The Chair: Kay Gardner, please.

Ms Kay Gardner: I am pleased to have been invited by Michael Bryant to speak to you this morning in support of Bill Pr22, a bill which would return to the city of Toronto the power to prevent the demolition of affordable rental housing.

Twenty-two years ago, hundreds of tenants, mostly elderly women, and I came here quite often to speak to committees just like yours, demanding such a bill, a bill to give the city the power to save the homeless from demolition. The battle for demolition control was then fought around three apartment buildings at Bathurst and Eglinton, known as the Axelrod buildings: 134 units of affordable rental housing which were to be demolished and replaced by 90 luxury condominiums. The tenants, mostly elderly women whose homes these were for many years, decided to fight back, and so began a most

ferocious five-year battle to save the buildings and to give demolition control to the city of Toronto.

The battle cry was, "Apartments are homes, too. Save our homes." Is this not the same cry we are hearing today across the city, as thousands of apartment homes are under attack and tenants are organizing and beginning to fight back? Twenty-two years ago almost everyone in the city of Toronto had heard about the Axelrod buildings and the old ladies who fought like lions to save their homes from demolition. The media loved them and the stories of their courage and their struggle were always news.

As we fought on, the mayors, John Sewell and Art Eggleton and many councillors joined in the fight, and also the leaders of the opposition, Rae and Peterson. After five long years of the most exhausting and bitter struggle, we won. It was unbelievable. It was a miracle. We need such a miracle today.

1130

In 1984, Bill Pr3 was introduced in the Legislature by the new Premier, David Peterson. This bill granted the city demolition control, and the tenants got their homes back. With financial help from the province, the city bought the buildings and added 134 units of housing to its Cityhome stock. A handful of tenants, veterans of this battle, are still alive, and living happily in those homes.

I tell this story because the tragic events of 22 years ago, of people about to lose their homes, crying out for your help, are before us again. We cannot ignore their cries. Today, a tenant losing a home has nowhere to go. I beg you to return to this city the power to stop all demolition now. Your action today would be a very important first step in solving the housing problem, by protecting the housing we now have, as we search for solutions on how more housing can and must be built.

I'm certain that when the government killed Bill Pr3 and replaced the rent control legislation with the Tenant Protection Act, they did so in good faith. They told us they hoped the development industry would be encouraged to build rental housing again. This has not happened. The Tenant Protection Act has not protected tenants from losing their homes or against unfair and outrageous rent increases. I believe it is now time for the government to say, "We tried, but we did not succeed, not yet." It is now time for the Minister of Housing to act, to act with courage and determination, and to say to the people of Ontario, "We will not allow the destruction of a single apartment home." That is exactly what happened in 1984 when a politician, David Peterson, came to a rally of tenants fighting for their homes and said, "If I am elected, the city shall have demolition control, and you shall have your homes back." We can make this happen again. You must make it happen.

While talks on a national housing policy continue and sound promising, we must act to stop the destruction of the housing that now exists. I fear that it will be several more years before any of the 7,000 people on the waiting lists will be moving into new housing. You must act today. You must say no to any further destruction of

tenant homes. You must act to keep families out of shelters and off the streets. You must give the city the bill it needs to do this job.

The Chair: Thank you, Kay.

There are six more deputations, because I understand one of them is not here; that would have made it seven. If there are no objections from the committee, we will limit people to two minutes in order to be able to finish this. OK? So for the new deputants, two minutes each, please.

LAUREL BROTEN

The Chair: Welcome, Laurel Broten.

Ms Laurel Broten: My name is Laurel Broten. I am a lawyer and community activist. As a lawyer who has acted extensively for both landlords and tenants over the past 10 years, I can tell you that we need to find a better balance; a balance which both encourages landlords to develop, build and maintain housing units, which are currently in short supply, and one which, at the same time, protects tenants from unforeseen, drastic rent increases and unannounced, sudden evictions. This government's Tenant Protection Act has failed miserably in finding that balance. I know you know the statistics about vacancy rates in the city of Toronto. In the community of Etobicoke where I live, average rents increased in 1999 by 4.8% and in 2000 by 6.5%. According to the University of Toronto's urban and community studies, on the whole, Ontario families and tenants have paid more than \$330 million in increased rents to their landlords and there is currently a deficit of over 74,000 rental units. More than 60,000 households are on the waiting list, and that represents a staggering 100,000 adults and 47,000 children.

Under this government's policy, in return for increased rents, landlords were to build new and affordable housing, and everyone in this room knows that has not happened. Any increases, even modest, have been surpassed by losses we have suffered as a result of demolitions and conversions. Evictions are on the rise, averaging 60,000 evictions in a year, and the processes implemented by the Tenant Protection Act to create the Ontario Rental Housing Tribunal have failed Ontario families and their children.

Over the past two and a half years, I have chaired a board of directors at the Gatehouse Child Abuse Advocacy Centre, and the shortage of safe and affordable housing in Toronto is playing a bigger role than ever in child welfare cases. The lack of safe and affordable housing affects children in Toronto and Etobicoke every day. The conditions in which children live have severe and drastic consequences on their health, their safety and their future. Statistics may seem distant, but the increased lack of affordable housing and safe rental accommodations is affecting families every day, and those are real families and real children who have been evicted with little or no notice, with the result being families and children on the street, without time to find alternative accommodations and with no place to go.

The only solution to the dire housing crisis in Toronto will be found through coordinated efforts on the part of all governments. A first step along that path is to restore Toronto's control over its housing situation in order to ensure that a balance is created and that Toronto's current housing crisis does not further escalate.

On behalf of families and children in Etobicoke and Toronto, I would encourage you to support the bill before you today. Do not defer your responsibility to the courts. Families and children cannot wait.

The Chair: Thank you, Laurel.

FAIR RENTAL POLICY ORGANIZATION

The Chair: I call upon Vince Brescia of the Fair Rental Policy Organization. Two minutes, please, Vince.

Mr Vincent Brescia: I've passed around some written remarks. I can't possibly begin to state our industry's viewpoint within two minutes.

The Chair: I understand.

Mr Brescia: I'm not even really going to try. All I can say to you is that in the development of this bill, our industry was not consulted. Whether it was the city or the proponent, I'm not sure about how you can develop a bill that would involve demolition or controls or a re-development process without consulting with the industry that would be involved in that process.

I'd ask you to examine this legislation in its broader context. When the government tried to change the legislative environment in 1998 through the Tenant Protection Act, they wanted to encourage investment in rental housing, and it's been an enormous success. I can tell you that capital repairs in our industry have tripled. Our industry is spending close to \$1 billion in capital repairs, creating tens of thousands of jobs. Interest in new development has exploded. You're going to see starts data take off. The reason you people are citing starts data that hasn't yet is that it takes many years to go through the development process. You're about to see those numbers take off. The institutional investors who left in 1975 have come back to our industry. Pension funds, insurance companies, publicly traded companies are interested in investing in rental housing, and the federal government also wants to encourage this investment now.

You have to look at this legislation in this context: this treats rental housing, as all the other regulations do, differently from other real estate. You're giving the investment community yet another reason not to invest in rental housing. I only have two minutes and I can't get into the details of why this is a bad idea, but you are going to make matters worse. All the proposals that I know coming forward are to create more housing. So when a demolition happens, like some of the cases that have been cited, the developer is actually going to provide 300 more rental units than were there in the past.

For those of you who go up to the moraine and places like that and say, "We can't develop up there," and are against sprawl, and we're trying to intensify development on the subway lines, you're going to prevent that type of

development. You're definitely going in the wrong direction. So I encourage you not to pass this piece of legislation and I thank you for your time this morning.

The Chair: Thank you, Vincent.

1140

TENANTS ADVOCACY GROUP

The Chair: Elinor Mahoney.

Ms Elinor Mahoney: I too will be brief. I'm glad to hear that landlords are interested in building, because this legislation calls for its own repeal should the vacancy rate get to be 2.5%.

Is the bill necessary? Yes, it is necessary. I'd like to address the Conservative members of the committee in saying that if there were an earthquake in your community, I'm sure you would pass emergency legislation to help the people who were displaced from their houses. Well, this is like an earthquake that we know about in advance. It's happening slowly and we are asking you to take some non-partisan moves to pass emergency legislation that we need to keep people from being displaced from their homes. That's why we are here today.

We urge you to consider this, to argue quickly and to vote by the end of today.

The Chair: Thank you, Elinor.

ROSEWELL COURT TENANTS ASSOCIATION

The Chair: Jean Hyndman.

Ms Jean Hyndman: Thank you for the opportunity. I was counsel for the tenants' associations on three of the five applications that have gone forward to the OMB, and I'm here to strongly support this bill on behalf of those people and so many others out there like them who face the possibility of losing their homes through demolition. These applications that are being brought forward are generally to demolish affordable rental housing, to be replaced with luxury condominiums. Even when the proposal is to rent them out, they are still registered as condominiums, as in Rosewell Court, with very luxury rents.

What we consider a win at Tweedsmuir means that all affordable units are being replaced. However, 146 units are being removed temporarily from the market, and my clients are faced with finding interim housing for a period of a year or two years while the new units are being built. Many of them are seniors, and it's going to be a great hardship on them.

Rosewell Court, of course, was a devastating loss. There is no affordable rental replacement. The one-bedroom units that are being built are renting from \$1,200 to \$1,500 a month, the two-bedroom from \$1,600 to \$1,900 a month. The vast majority of tenants can't afford those rents. There is no public benefit from getting those units. The tenants who are being displaced are, for the most part, people with moderate incomes; single parents with children and a few seniors there as well.

St Clair was a success in that it got dismissed. There is the spectre, of course, that the developer will simply redevelop as of right and then the tenants will have no rights to rental replacement. The city will have no ability to impose terms and conditions for rental replacement or tenant assistance. They will simply get the minimum in the TPA, and we all know how far that will go in terms of finding any kind of rental replacement.

This bill does little more than provide a Tweedsmuir-like solution—although it does extend to developments as of right—and reduce the harm that demolition and redevelopment cause to tenants who are forced to move, through no fault of their own, and to the supply of rental stock and thereby to tenants generally for whom choice and even the possibility of finding suitable homes they can afford is further diminished.

This bill doesn't help people where the project has already been improved, but it's imperative that we have no more Rosewell Court situations, not just for the tenants who are forced out of their homes but for tenants generally and for the public interest. We need to provide housing for those people who work in jobs that pay less than \$40,000 a year. Those are your sales clerks, your clerical workers, your secretaries. They need to be able to afford to live here. The concern is certainly that the more demolitions are permitted, the more will be applied for, particularly in the more desirable areas around subways.

This bill is a Band-Aid that only keeps matters from getting worse. It's not simply enough to stand still. We desperately need this legislation until such time as we start producing more affordable housing, and I strongly urge you to enact this.

The Chair: Thank you, Jean.

PHILLIP WHITE

The Chair: The last speaker is Phillip White, former mayor of York.

Mr Phillip White: As has been already indicated, my name is Phillip White. I want you to know that I am not at present a member of any party, so I come here in a neutral position. I might add that I was in public life for 25 years, once on Metro council for 20 years and almost 10 years as the mayor of York.

I was shocked when I heard about the restrictions on the municipality when the province passed the Tenant Protection Act in 1998, and together with their appointments at the OMB, they have opened the door for demolition of apartment units, thereby making way for condos. In so doing, they have almost completely ignored the plight of the tenants, except for some small appeasement in the act. The province erred in taking away the responsibility for demolition of apartment buildings from the city.

Local government is closer to the people and is more aware of the basic needs of the people than the province. The merit of condo construction should be left to the city. The province has provided a smoother road for the developers than for the tenants. The road for tenants is

full of pitfalls. Looking for alternate housing of affordable rents today is almost impossible. The kind of situation today leaves tenants in a stressful condition and in some cases their health and their physical well-being deteriorate.

The last five years have been a bonanza for most builders in the condo business. It's time to give the other half of the equation a break, and that is the tenants. We need legislation that is more reasonable and fair. We need a more equitable solution, and the way to that is approval of the bill before you.

We don't want a city of haves and have-nots. We want our city, the capital of Ontario, to be able to provide housing for all incomes. Never in my 25 years of public service have I ever seen statistically such a horrific number of tenant evictions. Never has there been such a degeneration of people looking for affordable rents, some of them facing greedy landlords and some of them gouging. Never has there been such hopelessness and helplessness in our society for that segment of our population. Time is overdue for our provincial legislators to do the right thing. Bring back some relevance to the housing in cities.

As a mayor, I ask you to consider this situation, and I say to you, if you were the mayor of towns like Orillia, Owen Sound, Brampton or Kitchener, and if you were in the same position as the city of Toronto, you would certainly do the right thing by voting for this type of legislation.

I urge the members to vote for this bill with sound judgment, with fairness, with understanding and compassion and to approve the city of Toronto's bill to permit city council to regulate the demolition of rental housing.

The Chair: Thank you, Mr White.

Moving on, the parliamentary assistant has some comments.

Mr Kells: I'll be very brief, Chair. I do have some empathy with the member of FRPO on the time allocated for him to make the position from his point of view. But I would like to point out that one of his predecessors, Phillip Dewan, is chief of staff for the Liberal caucus here in Ontario and certainly understands the FRPO position. If he doesn't understand it, nobody understands it. He must have explained that to the Liberal members, who are united in support of this bill. I think that maybe you didn't get your message on directly but you certainly

have people who have been in your service in the past who understand it very well.

I would like to point out that in the last while, with our new Municipal Act and our brownfields act, we are moving as a government to set up a better relationship with the municipalities of Ontario. Obviously, in light of those efforts, the wishes of municipalities in the province of Ontario must be understood and met. Particularly when you have a municipality that has two and a half million people, it's certainly not a request, from that size municipality, that we would dare not give great consideration to.

I would like also to point out just in closing that the Toronto council vote was unanimous to create this private bill and that seems to me pretty strong evidence of the feeling down there. I can only point out again to the opponents of the bill that this bill has to be passed as a bylaw, and if you feel that strongly and you feel you have the merits of a strong case, I suggest that you make it to the councillors of the city of Toronto. If not, I would suspect that the vote would be unanimous again.

Anyway, I really enjoyed today's presentations. I think they were well made and that the point has been strongly made and everybody understands it.

The Chair: Thank you, Mr Kells. Anyone else? No other speakers. I guess we're ready for the vote.

Shall sections 1 through 14 carry? Any opposed? That carries.

Shall the preamble carry? Any opposed? That carries.

Shall the title carry? Any opposed? That carries.

Shall the bill carry?

Mr Wettlaufer: No.

Mr Caplan: A recorded vote, please.

Ayes

Boyer, Caplan, McMeekin, Prue.

Nays

Wettlaufer.

The Chair: That carries.

Shall I report the bill to the House? That carries.

Thank you, deputants, for coming, and thank you, members, for your support.

The committee adjourned at 1151.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr David Caplan (Don Valley East / -Est L)

Mr Michael Prue (Beaches-East York ND)

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Standing committee on
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règlements et des projets
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 12 December 2001

*The committee met at 1005 in committee room 1.*AJAX PICKERING
TRANSIT AUTHORITY ACT, 2001

Consideration of Bill Pr26, An Act respecting the Ajax Pickering Transit Authority.

The Vice-Chair (Mr Garfield Dunlop): I'd like to call the meeting to order. On our agenda we're first of all going to deal with Bill Pr26, An Act respecting the Ajax Pickering Transit Authority. The sponsor is Mr O'Toole. Is Mr O'Toole here?

Mr Morley Kells (Etobicoke-Lakeshore): No, but we can go without Mr O'Toole.

The Vice-Chair: OK. Is William LeMay here?

Mr William LeMay: I am. Thank you for the opportunity to appear this morning. We have been working with a number of government ministries in an attempt to sort through some of the practical implications relating to this bill, and some of the policy implications. While we've been receiving a great deal of support in that effort, there are a couple of things in the legislation that remain outstanding, and we'd like at this point to have the committee simply defer the matter over into the next session of the Legislature so that we can have an opportunity to sit down and deal with some of the government branches on some of the policy questions that remain outstanding.

The Vice-Chair: OK. Are there any questions anyone has to ask Mr LeMay this morning? Or maybe you're not prepared to answer any questions?

Mr LeMay: I'm prepared to answer questions if there are any.

The Vice-Chair: OK, but right now your preference is to defer it and we'll hold it over until the spring session?

Mr LeMay: That is my preference, yes.

Mr Kells: If I may, briefly, Mr Chair, the two cities of Ajax and Pickering have had discussions with the ministry in great detail, and although they haven't reached a conclusion, they've reached an agreement to defer, and so we'd be happy to leave this situation at that.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): We'd be happy to concur with that.

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 12 décembre 2001

The Vice-Chair: That's great. Thank you very much for attending here this morning, and we'll look forward to hearing you again in the spring.

Mr LeMay: Thank you very much for having us.

NIPISSING UNIVERSITY ACT, 2001

Consideration of Bill Pr25, An Act respecting Nipissing University.

The Vice-Chair: We'll go back now, ladies and gentlemen, to the following bills. The first one we'll deal with is Bill Pr25, An Act respecting Nipissing University. The sponsor is Norm Miller and the applicant, Nipissing University and Dr D.G. Marshall, president. Mr Miller, would you like to make any comments?

Mr Norm Miller (Parry Sound-Muskoka): Thank you very much. I'm the sponsor of this Bill Pr25, An Act respecting Nipissing University, and of course am very interested in it as well because we have a campus located in my riding in Bracebridge.

I'd like to introduce Dr David Marshall, president of Nipissing University, who is going to speak to the bill.

The Vice-Chair: Please feel free.

Dr David Marshall: Thank you very much, Mr Miller. Thank you, Mr Vice-Chair and committee, for hearing our amendment today.

I'll be very brief. The issue is fairly clear and I think the logic fairly clear as well. Nipissing University was established by a private member's bill in 1992 as Canada's newest university and the first new university established in Ontario in 25 years. We had had a previous 25 years' experience as a university offering university degree programming as an affiliate of Laurentian University. At the time, given that it was the first new university in 25 years, the government was quite logically cautious in the creation of a new institution and imposed a restriction in our act on our degree-granting powers, limiting Nipissing University to undergraduate degrees only, and the masters of education.

Almost 10 years later, I think Nipissing University has certainly proven itself and I think that caution can be put aside. Nipissing University has doubled in size, it has maintained a balanced budget, and it has expanded its accessibility to places like Muskoka and other places in northern Ontario. After 10 years it is now the number one ranked university in Ontario on the government's own

key performance indicators. At this time, I think it's appropriate for Nipissing University to have the same degree-granting authority and powers as all other universities in Ontario, and that's what we're asking in this amendment.

The only urgency of it, and the reason we're bringing it forward at this time—other than that it would be a wonderful 10th birthday present—is the fact that we do wish to consider some expansion in our faculty of education. They are exploring a partnership with other universities both in Ontario and Canada in the delivery of a PhD program in education, and this change in the act would allow this to occur.

The other changes are housekeeping. We reviewed our act, since we were bringing forth a proposal for an amendment, to see if there were other things that we wished to change, and there was just one other minor change we wanted to make with regard to the appointment of board members.

That's the issue today.

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The Vice-Chair: Are there any other interested parties who would like to make a comment today on this particular Pr bill? Does the parliamentary assistant have any?

Mr Kells: There are certainly no objections from the government. We would be pleased to have your wishes granted.

The Vice-Chair: Any of the committee members?

Mr Pat Hoy (Chatham-Kent Essex): I just had one question. You are, in the bill, talking about terms for the members of the board. Are you changing the number of members on the board?

Interjection.

Mr Hoy: It remains the same?

Dr Marshall: Yes, the number of members stays the same. The only change is that we've discovered that the odd board member leaves in the middle of their term, for a very good reason sometimes—they leave the country or whatever—and we didn't make provision for somebody coming in and replacing them in mid-term and then carrying on with their board term. So the change just allows that to occur.

Mr McMeekin: Dr Marshall, just out of my own curiosity, because we've had a number of groups come through these hallowed halls and talk to us about life on their campus, do you have any students on your board?

Dr Marshall: Yes.

Mr McMeekin: How many students would you have?

Dr Marshall: We have two students officially elected by our student union to our board, and six official observers chosen by the student union. So while only two of the 25 members of our board are officially elected and voting members, we have another six who are what we call ex officio or observers, and full participants in the—

Mr McMeekin: That's great. I congratulate you for that. On the senate as well?

Dr Marshall: Yes, we have four members of our senate on our board who are elected by senate.

Mr McMeekin: I'm an old elected student senator at McMaster—a phenomenal learning experience. The best education I had was sitting on the senate.

Dr Marshall: I can assure you that our students and our faculty that participate on the board and senate, and the board that participates on the senate, find it a wonderful experience, and it certainly represents the best of the collegial decision-making environment at university.

Mr McMeekin: Mr Chairman, I think it's time this university was brought into the 21st century along with all our other fine institutions, and we'll certainly support the changes.

The Vice-Chair: I would have thought your best education would have been right here. You thought it was back at McMaster.

Mr McMeekin: Sorry to disappoint you.

The Vice-Chair: Are there any other questions?

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): I just wanted to congratulate Nipissing University for their expansion and I'd like to wish them well.

The Vice-Chair: Any other questions? Are the members ready to vote? By the way, I'm assuming you must be planning a campus somewhere in the Orillia area too.

Dr Marshall: You'll have to attend my speeches at the Muskoka Development Commission to find the true secrets of our strategy.

Mr Wayne Wettlaufer (Kitchener Centre): The Chair is not permitted editorial comments.

The Vice-Chair: Committee, shall sections 1 to 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much for being here today.

CITY OF OTTAWA ACTS

The Vice-Chair: Our next order of business is Bill Pr21, An Act respecting the City of Ottawa. The sponsor is Mr Guzzo. The applicant is the city of Ottawa, and I'll let Mr Guzzo introduce everyone.

Mr Garry J. Guzzo (Ottawa West-Nepean): Thank you, Mr Chairman. Let me simply say that my practice has been in the past, and will continue to be, notwithstanding the fact that I've been asked to sub in today, to take a neutral position with regard to my personal feelings on any of these matters. I take it as my responsibility to bring these forward when the council has spoken, and I will be abstaining in any votes with regard to them for that reason.

I'd like to introduce, if I might, Ms Anne Peck, who is the legal counsel with the corporation of the city of Ottawa, and Susan Jones, the director of bylaw services with the city. On my immediate right is Edythe Dronshek, special counsel with the city. If I could just tell you, it might be the last time that Ms Dronshek is before us, as she's leaving the city after some—I'm not

going to tell them how many years of fantastic service. I can tell you that Mr Vice, who is going to address this committee, and I were called to the bar the same year; 1969 was a bumper crop in Ontario for lawyers, I guess. The former Liberal Premier was in that class, as was the former leader of our party, Mr Grossman. However, some of the others went on and actually practised a considerable amount of law. I'd just tell you that she groomed Mr Vice in those early years, and you have to take some responsibility for that. There are a number of us who as councillors were helped in those early years, and certainly in practice over the years, by this lady. She's been an exemplary employee and is going to be very, very difficult to replace. I gather that is going to be Ms Peck's responsibility, and we wish her well.

There are two bills here, and one of them, I gather, is not contentious. That's the one with regard to the taxi services. I would suggest that we deal with it first.

CITY OF OTTAWA ACT (TAXICABS), 2001

Consideration of Bill Pr24, An Act respecting the City of Ottawa.

The Vice-Chair: That's fine. We'll deal with Bill Pr24 first.

Mr Guzzo: Thank you, sir. I would ask Ms Dronshek to address you.

Ms Edythe Dronshek: Thank you very much for the kind words. I'm overcome.

The city of Ottawa was amalgamated in 1999. As a result of that, the regional municipality of Ottawa-Carleton and the 11 area municipalities that comprised it were dissolved.

The taxi industry is currently regulated pursuant to six taxi bylaws that have effect in the larger old municipalities: Cumberland, Gloucester, Kanata, Nepean, Ottawa and Vanier. The enabling authority for the amalgamation allows the existing bylaws to remain in place in the old geographic area to which they applied, and they may be amended from time to time. It is only when they are harmonized that these bylaws are gone and replaced with a new one for the city of Ottawa.

The city council has a plan in mind for the licensing and regulation of taxicabs in the new city. They are concerned with respect to the harmonizing bylaw. This bylaw would apply to the entire city. One of council's desires is to leave the unregulated service that is currently provided in the rural areas of Goulbourn, Osgoode and Rideau without municipal regulation.

Motion 1, which has been agreed to by the city, is the way in which we would like to address the rural areas. It is allowing the city to pass a licensing bylaw to regulate owners and drivers of taxicabs used for hire and to define the area or areas to which the bylaw applies. The intended areas would be the ones where there are currently licensing regulations in place in the city of Ottawa. It is intended to leave the rural areas unregulated. This addresses the concern that if the bylaw applies city-wide, the issuance of owners' licences to existing rural

operators would result over time in their use primarily in the urban areas, reducing service in the rural areas.

The taxi service that exists has developed without municipal regulation in the rural areas. The number of businesses that are operating as taxicab or parcel delivery services is relatively small in comparison to the fleets that are in the suburban and urban area. These rural businesses operate on a lower demand and revenue base than exists elsewhere. They're generally small fleets of one to three cars. The drivers often do other jobs, so they do a few morning runs with taxis, and then they may do school bus runs. Predominantly, their customer base is going to the airport or the weekend bar traffic. A consistent, all-day demand does not seem to exist, based on the information gathered in the major consultation process that the city went through when it was strategizing its taxi plan.

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Throughout the consultations, no major issues of poor service or the need or desire for a regulated service in the rural areas were expressed. In addition, no concerns were expressed with respect to the occasional licensed taxi driver picking up a customer in the rural area.

The rural operators did feel that if they are to be regulated and face business fees similar to the suburban and urban areas, they would have to have access to the larger city in order to gain their revenue. However, if the owners and drivers are able to stay within their rural areas, they will be able to continue doing exactly what they are now with the status quo. The city is desirous of leaving these areas unregulated and to have the bylaw only apply to the urban and suburban areas. This allows the urban industry to continue in a regulated field and the rural area to continue unregulated, as it is now. The request for the ability to exempt these certain areas ensures that the service that is presently being provided in the rural areas will continue to be provided to the rural community. This is why the city is requesting the legislative authority.

The Vice-Chair: Would any of the members like to make any comments or have any questions? Raminder first; then I'll go to the parliamentary assistant after.

Mr Gill: Just a question. Can anybody in the rural area right now pick up passengers from downtown?

Ms Dronshek: No, they can't.

Mr Gill: So it's not changing anything. They can't pick up now—

Ms Dronshek: No, it's not changing anything.

The Vice-Chair: Parliamentary assistant, do you have any comments?

Mr Kells: Yes, I do, and I have a couple of motions, if I may.

First I'd like to point out that there has been a great deal of discussion between the city of Ottawa and the staff of our ministry. The two motions that I have to give come from agreement between the two parties. So if I may—

The Vice-Chair: On any amendments, we'll do that in clause-by-clause, if we could.

Mr Kells: Sure.

The Vice-Chair: Are there any other questions or comments on this?

Mr McMeekin: I just wanted to ask: the unregulated rural or suburban communities wouldn't be, by agreement, allowed to pick up in the city of Ottawa, but, as one would expect, if they were called on by a local resident to go into the city of Ottawa, they could do that.

Ms Dronshek: They could drop off. Yes, they can.

Mr McMeekin: So this is designed to be a win-win for—

Ms Dronshek: For the rural operators.

Mr McMeekin: It's to balance off the competing goods here.

Ms Dronshek: Yes, it is.

Mr McMeekin: You had some consultation with the industry?

Ms Dronshek: We had a major consultation. We hired consultants, who produced an entire study, which is a piece of the attachment in the compendium.

Mr McMeekin: I used to sit, back in my 20s, on the Hamilton taxi licensing committee, and I know just how fragile it was then. The city council, of course, supports this?

Ms Dronshek: Oh, 100%.

Mr McMeekin: Fair ball.

Ms Dronshek: The taxi industry supports it as well.

Mr McMeekin: Great.

The Vice-Chair: Just to make a bit of clarification, I'm going to ask the parliamentary assistant to describe the amendment he'll be making.

Mr Kells: I do believe the honourable member has touched upon the issue. What's transpired is that the city was asking to set up subclasses. In discussion with them, we and they agreed that this is unnecessary, as it's been done by other municipalities, and it doesn't need private legislation to do what they wish to do. They want the specific provision involving the rural areas, and we think that's in order and certainly will pass the amendment to support that. Secondly, they're asking that we vote down the bylaw involving the old municipalities, because they don't have bylaws that affect this anyway. So at their request we're going to be asking to vote down a section of the bill.

The Vice-Chair: Section 2?

Mr Kells: Section 2. We'll do that as we go.

The Vice-Chair: Other comments?

Mr McMeekin: Just a quick query. Given what you've just heard, are those who are making the presentation comfortable with that?

Ms Dronshek: Yes. That's exactly what we agreed on.

Mr Kells: You're not suggesting that we didn't have an agreement, are you? You have to get a little more faith in staff.

Mr McMeekin: You know, Morley, we're so frequently in sync that I seldom differ from anything your government wants to do.

Mr Kells: I think you differ simply because it's a reflex action.

Mr McMeekin: No, it's not.

Mr Kells: I know the action.

Mr McMeekin: Once again, I'll be supportive.

The Vice-Chair: Thank you. It's good to hear that. Are there any other interested parties here today who would like to make a comment on this? Are the members ready to vote?

On section 1, I understand, Mr Kells, that you have an amendment.

Mr Kells: I move that section 1 of the bill be struck out and the following substituted:

"Bylaws re taxicabs

"1. In a bylaw passed to license, regulate and govern owners and drivers of taxicabs used for hire, city council may define the area or areas of the city to which the bylaw applies."

The Vice-Chair: Are there any questions on that amendment?

All in favour of the amendment? That's carried.

Shall section 1, as amended, carry? Carried.

Section 2 is the section you'd like to see turned down?

Mr Kells: Yes, the applicant recommends that we vote against this section.

The Vice-Chair: Shall section 2 carry? No.

Shall section 3 carry? That's carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Thank you very much.

Thanks for being here today for that bill.

CITY OF OTTAWA ACT (CONSOLIDATION OF SPECIAL ACTS), 2001

Consideration of Bill Pr21, An Act respecting the City of Ottawa.

The Vice-Chair: Mr Guzzo, do you have any comments on this one?

Mr Guzzo: This is a housekeeping matter which is occasioned as a result of the amalgamation of the constituent municipalities in the regional municipality of Ottawa-Carleton prior to January 1, 2001. It represents a number of facets and I'll have Ms Dronshek, if you would, go through them in detail.

Ms Dronshek: As we indicated, the new City of Ottawa Act, 1999, that created the new city of Ottawa contained a provision that allowed every power and duty that was in existence in the old municipalities under any private act to continue to remain in place for the geographic area of the former municipality. As a result of this, the new city has different powers and duties in different parts of the city, depending upon the special acts that have been passed with respect to the various old municipalities prior to amalgamation.

The old municipalities, specifically Ottawa, Nepean and Gloucester, have obtained many special acts throughout the years with respect to certain matters that address their unique concerns. The value of these enhanced powers is recognized and it is considered expedient and in the best interests of the new city to have the same powers obtained in the private acts of the old municipalities apply city-wide prior to harmonizing the affected bylaws of the old municipalities. The purpose of this bill is to extend to the whole new city these certain powers and duties that existed in previous special acts of the old municipalities.

Part II relates to garbage removal, grass and weeds. It was in existence and is based on two acts, one obtained by the city of Ottawa and one by the city of Nepean. Its purpose is to enable the council to require owners of land to maintain the highways abutting their land, other than the parts of the highways used for motor vehicle traffic, by removing garbage and debris and by cutting and removing the grass and weeds. Most city boulevards are well-maintained by the adjacent property owner or occupant as part of their regular maintenance of their own properties, thereby ensuring that the overall property is visually pleasing. However, these private acts were obtained to address the situations where the owners or occupiers do not maintain the boulevard, particularly the outside boulevard between the roadway and the sidewalk adjacent to their private property, and the boulevard becomes unsightly.

The proposed draft bill recognizes that there are two different standards for a rural-suburban entity and the rural requirements and that they should remain distinct, and provides the council with the ability to designate areas and highways, or parts thereof, where the boulevard maintenance rules will apply, as well as to vary the regulations according to the designated area or highway. This addresses the difference between the urban and the rural areas. The council is asking for this authority to apply city-wide so that it has the ability to carry on these programs within the whole city but has the ability to recognize the distinctions between the rural areas and the rural requirements.

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Part III is based on the City of Ottawa Act, 1996. It is to enable police officers, municipal law enforcement officers and other persons authorized by bylaw to move and store objects and vehicles abandoned on city property contrary to a city bylaw. It does not apply to motor vehicles with valid number plates issued under the Highway Traffic Act or a law of another jurisdiction. This power is designed for objects or vehicles not pertaining to street vending and is complementary to the removal power for street vending in the designated space program and the removal zones that are now presently contained in the new City of Ottawa Act. It may be used in areas outside the removal zone established for the designated space program and applies to city property including highways. The city believes there is value in having this authority apply city-wide.

Part IV deals with the heritage properties. It is based on the City of Ottawa Act, 1999, being the private act, and is modeled on a recent recasting of the standard heritage provisions as found in the City of Toronto Act, 2001.

This legislation is not unusual or unique and exists in 11 other large cities by virtue of a private act. Its purpose is to enable city council to exercise greater control over the issuance of demolition permits for buildings on properties designated under the Ontario Heritage Act or located in an area defined as a heritage conservation area. The part gives city council the power to prohibit the demolition or removal of such properties until at least 180 days have elapsed from the date of the refusal to issue a demolition permit and the owner has obtained a building permit to erect a new building on the site of the building to be demolished or removed. The new building will be compatible and sensitive to the heritage district and the land will not be left in a vacant lot or a parking lot.

This legislation has been consistently supported by Heritage Canada and Heritage Ottawa. There have been no objections to it, as far as we know, even when we did it in 1999. There are different rules in the other areas of the city because only old Ottawa had this legislation. So city council in the other areas may refuse the application or demolition under the Heritage Act for a period of 180 days. Then, if council refuses the demolition application, the demolition may occur subject to the legislation, following a delay of 180 days.

The city of Ottawa has always been proud of its built heritage. This is reflected in the number and variety of properties and heritage conservation districts in old Ottawa that are designated. As a consequence of amalgamation, there is an additional heritage conservation district in the old village of Rockcliffe Park which includes 700 properties as well as 75 individually designated heritage properties.

The city of Ottawa believes that there is value in having the authority to apply city-wide. Since 1999, the old city of Ottawa has used this authority once, and the project did not go ahead for financial reasons and the building is still standing. But the legislation seems to be of great value in that there seems to be an ability to reach agreements and preserve these buildings.

Part V deals with licensing matters and is based on various provisions obtained in Ottawa, Nepean and Gloucester.

Section 18 is the licence committee. It allows a committee of council to suspend or revoke business licences or to impose conditions as a requirement of obtaining, continuing to hold or renewing a business licence. Although the general licensing power was amended in the Municipal Act in 1996, it does not provide a committee of council with the ability to make a final decision. The city of Ottawa believes that there is value in having licensing issues administered by a committee of council that is well versed in licensing matters and trained in its quasi-judicial capacity. It is desirous of establishing a

committee of council that is authorized to suspend or revoke any such licence and to impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, including special conditions, and having its decision be final. The committee of council format will retain the political accountability or responsibility.

Under section 19 there is the suspension of licences. City council may authorize the chief licence inspector or another municipal official to suspend business licences in emergency situations for a limited time and subject to the conditions that the bylaw may provide. The emergency situations and the criteria to establish a situation as an emergency are set out in the bylaw. No suspension is effective after the expiration of two weeks from the date of suspension or after the time of the next meeting of the licence committee, whichever is first. The city believes there is value in having this authority apply city-wide.

Section 20 relates to bylaws requiring surrender of drivers' licences and vehicle permits. This allows the city to pass bylaws requiring that drivers whose motor vehicles are regulated under a business class licensing bylaw surrender their driver's licence and vehicle permit for reasonable inspection, which were issued under the Highway Traffic Act or similar law of another jurisdiction. Its purpose is to identify the owner or driver of the vehicle that is regulated under a bylaw where the driver or owner is not the holder of a licence issued under the bylaw. It does not authorize the retention of the licence or permit.

Section 21 deals with limitations on licences. It empowers the city to pass bylaws limiting the number of licences issued to itinerant sellers or owners or operators of refreshment vehicles or to any class of them. Old Ottawa has special legislation with respect to the limitation on the issuance of these licences in conjunction with the designated space program. The designated space program is implemented in the downtown core of old Ottawa and effectively limits the number of vendors operating in the core by establishing only a limited number of vending spaces on the streets and sidewalks. The same limits do not apply outside the program area. This authority was required to ensure that the problems of proliferation, congestion and establishment of territorialism are not relocated to the suburban areas. It is used to limit the class of licences for vending on the streets and does not affect vending on private property with the consent of the private property owner. As there is now general authority in the designated space program in the new City of Ottawa Act by virtue of sections in that act, council is desirous of having the authority to limit the issuance of itinerant seller and refreshment vehicle permits to the whole new city in conjunction with this designated space program.

Part VI relates to private roads and is based on a provision in the City of Ottawa Act that it obtained in 1978. This part allows city council to pass bylaws respecting private roads, for doing the numbering of buildings and lots or units along private roadways and affixing numbers to the buildings, for naming and

renaming private roadways, and for requiring the owner of a private roadway or condominium corporation to enter into agreements with the city respecting these matters, including the maintenance. The city considers that there is a need to extend city-wide this approach of old Ottawa with respect to the naming and renaming of private roadways, for affixing numbers to buildings and for keeping a record of civic addresses on private roadways to ensure efficient delivery of emergency, medical and protective services.

Part VII is the property standards fees for inspections and is based on the acts obtained by Nepean and Ottawa. It allows council to pass bylaws prescribing fees, including administrative costs, for the inspection and monitoring of certain properties where owners have failed to comply with a final order in respect of maintenance and property standards prescribed under the property standards bylaw. The city is given a lien on the inspected property for the amount of the fees payable.

Council's objective is to control recurring problems of property standards violations and to have a more immediate impact on extensive enforcement activities. It seeks the necessary authorization to have the cost of inspections levied against a property owner who fails to comply with a final order in respect of property standards violations, and if the amount is not paid, to be collected in like manner as municipal taxes. The intent is to require property owners who have received a final and binding order with respect to maintenance, repair or clearing of property, after the appeals have been dealt with or the time for filing appeals has expired, to pay the fees prescribed by council for each and every subsequent inspection required to confirm that the terms of the order have been complied with. The property owners do not request such an inspection. It is an enforcement incentive to encourage compliance with the property standards order.

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Operationally, the fees apply only when an inspection confirms that an owner has not complied with an order that has become final. There is no requirement to pay the fee if no deficiencies are identified and no order is issued; however, any additional inspections, once the time for compliance with the order has expired and the order has not been complied with, would be at the owner's expense since this becomes the trigger point for the enforcement process and has passed the technical advice and consultative stages as part of any civic responsibility to the community. Council considers that there is a need to extend city-wide this cost recovery approach and to charge for all re-inspections after the final order.

Part VIII is an amendment to the City of Ottawa Act, 1996, and is really a housekeeping amendment to keep the existing bylaw in place. The provision that is being amended applied to highways that were under the regional road system. In order to maintain the status quo, it is necessary to provide that the existing bylaw continues to apply to all roads of the old regional muni-

city within the geographic area of the old city of Ottawa. The draft bill repeals and replaces section 5 of the City of Ottawa Act, 1996, to provide that a bylaw passed under the 1996 act applies to any highway located within the municipal area of the old city of Ottawa and it continues to apply to all former regional roads within the geographic area of the city of Ottawa as well as the old Ottawa streets. This is the application the city is seeking.

The Vice-Chair: Thank you very much. Do any other members of the city have any comments? Do any other interested parties have any comments?

Mr Peter Vice: Good morning, Vice-Chair. My name is Vice. I'm a partner with the law firm of Vice and Hunter in Ottawa and I'm on my own hook. Before I get started, I want to echo my friend Mr Guzzo's comments with regard to Ms Dronshek. I've practised law with Edythe and started with her at the city of Ottawa legal department. I moved out into private practice. She's been a great asset to the Ottawa legal community and to us in the private bar. I want to welcome Miss Peck, who comes from the private bar to the public end. I know that she will try to do every bit as good a job and will hopefully emulate the work done by Ms Dronshek.

Mr Vice-Chair and members of the committee, anything I say here today is not a condemnation in any way of the heritage planners in the city of Ottawa. I deal with them every day and they're fine, upstanding people and carry out their duties in a very honourable way. But I figured I would have been derelict in my duties if I hadn't come here and at least spoken to this bill. Particularly, the only part of the bill that I want to speak to is Part IV, the heritage part of it, and where the special legislation will now apply to all of the city of Ottawa and not just to the old city. It will now apply to the amalgamated city.

My specialty is municipal planning law. I think I can say I speak for most of the lawyers who are in the private bar who have dealt with heritage matters in the city of Ottawa and other places within eastern Ontario.

Firstly, under the present legislation, as you know, you can apply for a demolition permit or a permit to alter your building. The city has 90 days to deal with it. They can get an extension of 180 days. At the end of 270 days, they have to deal with you or you can either demolish or alter the building in accordance with the plans.

The concern in Ottawa is—and Ms Boyer and Mr Guzzo would understand this—that there are more heritage district designations in Ottawa than in any other place in Ontario. If you know Ottawa, you can go from the Queensway north to Parliament Hill, and all of that area, including all the parking lots in that area, is designated within heritage conservation districts. I'll get back to a parking lot example later in my presentation.

I was well aware, as Ms Dronshek has pointed out to you, that there are a number of other municipalities that have it, and I'll comment on that later. But basically, this legislation provides that you must be issued a building permit prior to the municipality issuing a demolition permit. When you apply for a zoning change or a site

plan approval, you know the rules. There are no rules laid out when one applies for the building permit—there's nothing. In fact, if you even look at the act, they say you have to provide the reasonable information as required.

So you're in a heritage district and you have the example of one of those parking lots. If you've been in Ottawa lately, you'll know there are a lot of them, and they're also designated. So you have the person who has a parking lot and wants to develop his land or wants to respond to an RFP, because that's the way most of the buildings in central Ottawa get built. The federal government generally has an RFP with regard to providing a building they need for their purposes.

I'm acting for a client who is just outside of a heritage district. I can answer that RFP, and if I'm zoned all I need is site plan approval—that's been delegated to staff—and I can usually have a building permit within 60 days. If I'm within an area that's designated as a heritage district, I can tell you—and I've been through it—it's going to take nine months to a year to get that permit, because there are no rules of the game. You apply, you deal with staff first, then you have to go through the local advisory committee. Everything is subjective. There's nothing objective that you can look at.

The city of Ottawa heritage planners are excellent to deal with, but they've also got their job to do. There was one example just approved in Ottawa, and I talked to the lawyer who was on it. After \$600,000 worth of plans, he got his plans approved. That was fine. What would have happened to him if he had spent that \$600,000 and the heritage planners didn't like it or council didn't like it? You go on to the municipal board. I've probably had more experience before the municipal board than any lawyer in the Ottawa area. But there's nothing you can deal with at the municipal board. It's not like if there's a zoning change, where you can look to the official plan or look to other zones in the area, or nothing as there is in the site plan legislation, section 41 of the act. That is my concern: with this legislation you're taking away property rights. I heard Ms Dronshek say that 11 other municipalities in the province have exactly the same legislation. A student in my office found nine in an Internet search yesterday.

Mr Kells: The number is 15.

Mr Vice: Is it 15 now, Mr Kells?

Mr Kells: Things are moving quickly.

Mr Vice: If that is the case, then I ask this committee, and I put it to this committee, why haven't we done something with the Heritage Act? This private legislation, in my submission to you, is completely ridiculous, as it takes away property rights. If the Heritage Act isn't sufficient, why don't we have a discussion and why isn't the Heritage Act amended so the same rules will apply to everyone in Ontario? I'm not going to sit here and argue that the present act is perfect, but my view is that the same rules should apply to everyone in Ontario. Eleven or 15 wrongs don't make a right, Mr Kells and members of the committee.

You are simply taking away from individuals their property rights that back in 1984 maybe somebody should have entrenched in the constitution. That wasn't done, but people do have rights. I'm quite surprised. I heard my friend Ms Dronshek say there were no objections in 1999 to the bill that applied to the old city of Ottawa. We who practise in the field only became aware of that bill after it was in place, or, I can tell you, there would have been more than me down here objecting to it.

I'm open to any questions, Mr Chairman and members of the committee, but I think the legislation today goes too far. I think it went too far in 1999, and I think it goes too far in the other 14 municipalities. You have to have that balance. What is there now might not be sufficient, but you've just gone completely the other way.

1050

The Vice-Chair: OK, committee members, is there anyone who has any questions for Mr Vice? We have a couple here. We'll start with Madame Boyer—

Interjection.

The Vice-Chair: OK. Mr McMeekin. We'll get all the questions in.

Mr McMeekin: This heritage thing is something I've given a lot of thought to. We had some real discussion, Mr Kells will recall, when the Municipal Act was up. There was actually a proposed amendment that, as it turns out, was defeated, which would have given cities the authority to refuse to grant any demolition permit ever in a heritage area. It wasn't our amendment, but I believe the assumption behind it was that areas are designated heritage for a reason. Somebody somewhere, duly elected presumably in consultation with communities, had made a decision that something should in fact be protected.

I hear from some of my Native friends who have a lot of concerns about property rights. They wish there had been property rights when some of us arrived. They wouldn't have a lot of the difficulties they have now.

If I'm hearing you correctly, I think you're suggesting that this seems to be a further attempt to thwart the possibility that people who, for whatever reason or combination of reasons, want to do something and that some of those you have represented in the past aren't particularly pleased about that. And that's a good. That's not bad. I would define that as one of the competing goods. The other competing good is to protect the heritage areas and, I suspect, to try to elongate the process in order to buy some time to make some alternate arrangements—I don't know. How do you reconcile those competing goods?

Mr Vice: I'm certainly not here to speak against heritage, and I don't think any municipal planning law lawyer in Ottawa will. I think you'll hear a lot of us speaking against the number of areas that have been designated in Ottawa and the problems that has caused. As I mentioned, it goes from the Queensway to Parliament Hill. There's not one area in there that has not been designated. So nobody is against heritage at all, and

nobody is against the ability one must have to do projects that are complementary to the heritage areas. It's just that in this case, if you knew the ground rules—that's the concern—and if it didn't take the time it takes in order to do it—

Mr McMeekin: That begs my supplementary, if I can. There's the "buyer beware" principle when one makes investments. I'm assuming, I think correctly, that people who would buy property in a designated heritage area understand there are going to be some obstacles to some of the things they want to do. I used to live in a heritage home. I knew that when we wanted to make alterations to it, there was a process. It was designated before I bought it, by the way, so I bought the house knowing there would be certain restrictions, and we were prepared to live with those.

So you've got this situation where people are buying property, and in an event where they're buying property and the area isn't designated and is up for designation, there's a whole process there for them. Isn't there some "buyer beware"? Why should we be protecting people who are buying into an area and should be aware of the fact that it's going to be more difficult for them to do things there?

Mr Vice: Firstly, in the most recent one in Ottawa, they did the Sparks Street mall and the north part of Bank Street, and a lot of those buildings are very worthy of a heritage designation, no doubt about that.

Mr McMeekin: Yes, I would agree.

Mr Vice: Every one of those landowners—the families—have owned that land an awful lot longer than you've owned your house or I've owned mine. They are families who have owned that land for years. I won't mention the names, but the properties have been in those families for years. Certainly there is "buyer beware." That's one of the problems. When one tries to sell something that has a heritage designation on it, there's a "buyer beware" and nobody will buy it. Therein lies your problem. There's no market for it.

Mr McMeekin: You also pay less for the house, which was our case as well. So it cuts both ways. But thanks very much.

Mr Kells: That's the "buyer beware" part.

The Vice-Chair: Madame Boyer, you had a question?

Mrs Claudette Boyer (Ottawa-Vanier): No, it's all right.

The Vice-Chair: OK. Mr Wettlaufer?

Mr Wettlaufer: Mr Vice, I think everybody in this room knows that I'm a rather vehement defender of property rights. However, I'm also an historian and I was the sponsor of the heritage bill for the city of Kitchener, which is one of the 15 Mr Kells mentioned.

I don't know if you've ever been to Savannah, Georgia.

Mr Vice: I have been. I go to Hilton Head occasionally when I can get a week off to play golf. So I've been to Savannah a number of times.

Mr Wettlaufer: Savannah is one of the prettiest cities in North America because of some rather restrictive

property rights laws. One would say that they infringe dramatically on the rights of the owners of the properties, but in doing so they have retained the beauty of the city.

I lived in Ottawa from 1972 until 1975, and I still like to consider it my second home, partly because of the beauty of the city, the retention of the heritage aspect of the city, the retention of our history. While I know what you're saying insofar as the downtown core, albeit it's extended all the way to the Queensway—a huge area, I agree—nevertheless, there are areas outside of that core which are also very important to the heritage of the people of Ontario and the people of Canada, and it is our national capital. So there is that added importance to the people of Canada that when they travel to their national capital they would want to see that heritage preserved.

There's a very fine line, I agree, in preserving property rights but also in preserving our heritage. Do you not think the wording of the section of the proposed bill, in heritage properties, would spell out more what the obligations are on the city as well as on those making application for demolition? You had commented that people now making application for demolition don't know what the process is. Do you not think this might spell it out a little bit better?

Mr Vice: Well, it's not my bill, but yes. It's not for demolition; it's more for that person who applies for a building permit in order to get the permit to take the building down and put up something that is compatible within the heritage area. There's nothing anywhere that one can look at to say, when you go and hire your architect, what he can look at, what he from an objective point of view—subjective in his mind—can do to move the process on. You go in and deal with the heritage planners and you say, "What do you want?" They say, "Well, it's your application." They're right, it is, but there's nothing one can look at.

In a lot of cases—I told you about the parking lot case—it has nothing to do with the demolition of the actual heritage building. It's developing in an area that's designated on that parking lot that I keep hearing the city of Ottawa saying they're trying to get rid of, and when you answer that RFP it takes a year to go through the process. Therein lies the problem.

1100

I'm not here to argue against those heritage buildings, especially part IV buildings. There are some beautiful part IV buildings. Like Mr McMeekin, our office is in a heritage building in Ottawa. We're in a heritage district, and I'm very happy with it, notwithstanding I won't get the amount of money that others have who bought out of it, but that's beside the point. We're happy there now.

It's on those lots. Everybody is concerned about what's going to happen to those prize buildings that we all treasure. They're not concerned about how we're going to deal with the parking lots in the area—and I'm stressing parking lots, but I mean the parking lots and the other buildings that have no heritage character at all. Having lived in Ottawa, just think of coming off the Queensway and driving down Kent, Bank, O'Connor,

Metcalf or Elgin and seeing some of the crap that's there. Excuse my language, but that's a fact.

The Vice-Chair: OK. Madame Boyer, you had a question?

Mrs Boyer: Yes. Of course I have a lot of heritage conservation districts in—

Mr Vice: Sandy Hill, Madame Boyer.

Mrs Boyer: Sandy Hill, and even Rockcliffe Park, which is another one. Do you really believe that a city should have the right to deny building permits in a designated heritage area?

Mr Vice: Frankly, I think the local municipality knows the most—trying to be an objective person—about what goes on and, yes, I think they should have that ability. I think there should be some ground rules that go with it, but I really think the local municipality should have that authority.

Mrs Boyer: Especially in the capitals.

Mr Vice: We, in Ottawa, think we're a little high and mighty, but I think it should apply to all municipalities in Ontario. I have as much faith in my friends in North Grenville whom I act for, and Beckwith township, to do the right thing.

The Vice-Chair: Mr Hoy had a question.

Mr Hoy: I'd like to ask a couple of questions on garbage removal, grass and weeds on boulevards.

Mr Kells: Are we finished with Mr Vice yet?

The Vice-Chair: Pardon me?

Mr Kells: Are you asking Mr Vice?

Mr Hoy: Oh, I'm sorry.

Mr Vice: I have no problem with any of the other—

The Vice-Chair: Yes, these questions are to Mr Vice. Mr Gill, do you have a question of Mr Vice?

Mr Gill: I want, if it's in order, the city people to answer the concern Mr Vice has specifically about the parking lot. Why does it take a year to get approval to build on a parking lot if there's no demolition of any heritage-type building?

The Vice-Chair: Do you feel comfortable answering that question from the city perspective?

Ms Anne Peck: The demolition issue with the parking lot doesn't relate to the particular legislation that's before you today. That is something that would be covered through the Ontario Heritage Act and the provisions in the act with respect to building new structures on vacant property. The city of Ottawa zoning bylaw does have some provisions that relate specifically to replacing buildings in areas that are designated for heritage conservation districts. I know that the planning staff work co-operatively with the proponent to try to encourage them to make all the necessary applications at one time so that you move through the process together. If you need to have heritage permission, then you need site plan approval and you need a rezoning. All of those things occur at the same time so that the process moves smoothly through.

I can't speak to specific time limits on matters, but I know that planning staff work very hard with proponents in the heritage areas to try to ensure that the development

is suitable for the area and meets the proponents' needs as well.

The concerns that Mr Vice is raising in many cases are not specifically related to the bill before you. He's dealing with vacant properties. These are dealing with issues where the council is considering whether or not a building should be demolished, whether the demolition permit should be issued, and they're asking for criteria to be placed on the issuance of the demolition permit being the 180 days—which is already in the act—and the building permit.

The Vice-Chair: I'll now ask the parliamentary assistant if he can bring his comments on behalf of the government.

Mr Kells: Very quickly, I think Mr Guzzo hit the nail on the head when he said that this measure is really a housekeeping measure coming from the amalgamation of Ottawa, and we agree with that.

Basically, I don't want to repeat any of the things that have been said. It's kind of an interesting geographical tour de force, but basically we should get to the act and what we're trying to do here.

Mr Vice did hit the nub of the argument when he said that if this legislation is being passed in private city bills by 50 municipalities, maybe it's time the ministry here took a look at the Ontario Heritage Act. I think that's really the crux of the argument. We did discuss this bill with the Ministry of Tourism and Recreation, and they had no problems with that section of the bill. Our own government has no problems, so that's good enough for me, but I do think the point is made that maybe it's high time we revisit the Ontario Heritage Act.

The Vice-Chair: Do you have any comments on behalf of the government?

Mr Kells: Well, I did want to wait until Mr Hoy asked the city of Ottawa questions—I'm sure he has some—and then I do have a couple of amendments which I'd like to speak to, and then we'll handle them when you pass the bill.

The Vice-Chair: Mr Hoy has questions on the balance of the bill to the city of Ottawa. Go ahead.

Mr Hoy: I apologize for getting a little bit ahead of the flow of the questions.

The Vice-Chair: That's OK.

Mr Hoy: I mentioned I'm interested in part II. Who would be liable for an incident that occurred between the roadway and lands abutting an owner? If I'm out doing some of these acts—removing garbage and cutting grass and weeds—on property that is not under my ownership but was formerly part of either the municipality or maybe was provincial at one time and there was an incident with equipment etc and maybe automobiles, who would be liable: the municipality or me as the landowner working on lands that aren't under my jurisdiction?

Ms Dronshek: With respect to that question, that is one of the reasons why we really need the ability to distinguish the rural areas, because in the rural areas there is concern with respect to the safety of private people dealing with boulevards that are very severely

sloped or very difficult to deal with. The municipality doesn't want these people out there in any type of harm's way. There are safety issues with respect to those. That is why the city wants to be able to distinguish that area and not have any requirements with respect to the rural maintenance of the highways. In the cities, the maintenance is relating to boulevards that normally appear to be part of your own basic property.

Mr Hoy: It seems to me, reading this, that what you propose here is to allow people to cut grass along boulevards—

Ms Dronshek: At their own expense.

Mr Hoy: —but your answer to my first question sounds like you rather want to restrict them from doing that so that they don't incur liabilities.

Ms Dronshek: I beg your pardon?

Mr Hoy: It seemed to me in your answer about liability that you were suggesting that you don't want people in rural communities cutting the grass.

Ms Dronshek: We don't want people in rural communities cutting grass, no. We only want to be able to require the people in urban areas to do that.

Mr Hoy: OK. So are you proposing to have fines put in place for people who cut grass?

Ms Dronshek: There are fines in place—

Mr Hoy: You have them now?

Ms Dronshek: —in old Ottawa and old Nepean now.

Mr Hoy: OK, thank you.

The Vice-Chair: Any other questions, anyone on the committee? Are there any other interested parties here today that would like to make any comments on this? We don't want to leave anyone out if there's any chance.

OK, I'll turn it back over to the parliamentary assistant, who's going to explain a couple of amendments he has.

1110

Mr Kells: I'd like to point out well in advance, even though Mr McMeekin is gone, that we have agreement between the ministry and the city of Ottawa and we're going to be moving at the appropriate time that sections 23 to 27 be struck out. The reason for that is that those sections provide the city of Ottawa with specific authority to charge a property standards inspection fee. It is the opinion of the staff, our staff, that the city of Ottawa already has this authority under section 220(i) of the Municipal Act, the current act, and under section 391 of the proposed act, which has now been passed and will come into effect in 2003.

Also, the danger of proceeding with this provision is that other municipalities may seek a whole bunch of private legislation to be able to have specific authority for all kinds of fees instead of relying on the authority already provided under the Municipal Act.

Finally, fees created under this provision would not be subject to the accountability measures under the new act, which now, as I said, has been passed yesterday and will take effect in the year 2003.

We also would like to move an amendment involving section 28 of the bill. The bill as written violates the

provisions of the Charter of Rights and Freedoms, and we just want to do a housekeeping measure to make sure that the details of the bill comply with the Charter of Rights and Freedoms.

The Vice-Chair: OK, thank you very much.

Ms Dronshek: Excuse me. The property standards section starts at 23. Did you say 22?

Mr Kells: No.

The Vice-Chair: It's 23 to 27.

Ms Dronshek: OK, thank you.

The Vice-Chair: Is everyone ready to vote on this?

I'm going to categorize some of the sections. Are there any questions on sections 1 to 6? Shall sections 1 to 6 carry? Carried.

Are there any questions on sections 7 to 16? Shall sections 7 to 16 carry? Carried.

Are there any questions on sections 17 to 22? No questions? Shall sections 17 to 22 carry? Carried.

Sections 23 to 27: are there any questions on those?

Mr Kells: Yes, if I may.

I move that sections 23, 24, 25, 26 and 27 of the bill be struck out.

The Vice-Chair: That, Mr Parliamentary Assistant, is out of order, that particular resolution.

Mr Kells: What do you suggest I do, then?

The Vice-Chair: That we vote it down.

Shall sections 23 to 27 carry? No. Is everybody saying no? OK, that's not carried.

Section 28?

Mr Kells: I move that section 5 of the City of Ottawa Act, 1996, as set out in section 28 of the bill, be amended by adding the following subsection:

"Saving

"(2) No person shall be found guilty of contravening a bylaw referred to in this section, as it read on June 26, 2001, if the contravention occurred on or after June 27, 2001, and before the day the City of Ottawa Act (Consolidation of Special Acts), 2001, receives royal assent."

The Vice-Chair: You've all heard that amendment. Are there any questions on it? Shall the amendment carry? Carried.

Shall section 28, as amended, carry? Carried.

Shall section 29 carry? Carried.

Mr Gill: Is there an amendment in—

Interjection.

Mr Gill: Not been moved?

The Vice-Chair: No, nothing's moved.

Sections 30 and 31: shall they carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Mr Kells: I'd like to point out that the Chair is not here.

Interjection.

Mr Kells: Is he? Oh, hi, Rosario. I just wanted to make sure this got reported into the House today, that's all.

Mr Rosario Marchese (Trinity-Spadina): It will be.

Mr Kells: I feel better.

The Vice-Chair: Ladies and gentlemen, that concludes our meeting. Thank you very much for your attendance here this morning. I'll now call for adjournment.

The committee adjourned at 1115.

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Wednesday 22 May 2002

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Mercredi 22 mai 2002

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regulations and private bills**

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règlements et des projets
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 22 May 2002

Mercredi 22 mai 2002

*The committee met at 0959 in committee room 1.*TILBURY AREA PUBLIC SCHOOL ACT
(WILLIAM J. MILLER TRUST), 2001

Consideration of Bill Pr1, An Act respecting the Tilbury Area Public School and the William J. Miller Trust.

The Chair (Mr Rosario Marchese): I call the meeting to order. Welcome, everyone. Do we have enough Tories here?

Mr Morley Kells (Etobicoke-Lakeshore): Tories? We've moved to the left. You can't call us Tories.

Interjections.

Mr Kells: We can call Murdoch anything.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): Are we on the record?

The Chair: Order, here. Order.

I call Bill Pr1, An Act respecting the Tilbury Area Public School and the William J. Miller Trust. The sponsor is Mr Pat Hoy. Would you introduce the other folks, if you don't mind?

Mr Pat Hoy (Chatham-Kent Essex): Thank you to the committee and Chair. This bill is An Act respecting the Tilbury Area Public School and the William J. Miller Trust. I am indeed the sponsor of it. I will let the individuals who travelled here today introduce themselves. They'll give you an overview, and I'm sure they will answer any questions you might have.

Mr Brian Knott: Good morning, Mr Chair and members of the committee. My name is Brian Knott and I'm the director of legal services with the municipality of Chatham-Kent.

Mr John Taylor: Good morning. My name is John Taylor and I'm a solicitor in the former town of Tilbury.

The Chair: Thank you for coming. At this time, I'm going to read for the record the report by Mr Justice Maurice Cullity and Madam Justice Susan Himel.

"Re: Bill Pr 1, An Act respecting the Tilbury Area Public School and William J. Miller Trust

"At your request we have reviewed the provisions of sections 1 and 2 of the above bill.

"The provisions are consistent with the intentions of the donor and we do not believe that either the fact that they vary the terms imposed by the previous legislation,

or the nature and extent of such variations, should be considered to be objectionable.

"Accordingly, we believe the provisions of sections 1 and 2 of the bill are reasonable to carry its purposes into effect and that they should pass."

I read that for the record. Now either the sponsor or the applicants with some comments, please.

Mr Taylor: I'm the solicitor for trustees of this trust. Basically, I'll just give you a two-minute background on it. William J. Miller was a foster child believed to have been raised by a family in Tilbury in the 1920s and 1930s. He went on to live in the United States and died in Florida in 1960. In his will, he provided that the residue of the estate be left to the Tilbury Area Public School. There's a provision in the will that said if there was no such thing as a Tilbury Area Public School—a separate entity—the money should be given to the municipality for the benefit of the school.

A bill was passed in 1966 setting up a trust of this money whereby it would be invested. Three hundred dollars a year would be used for an outing for the children or something, and the rest was to be kept invested and the interest applied to the reduction of taxes for the municipal ratepayers who supported that school. As things evolved, the Tilbury public school became part of the Kent county school board. There was a fear by the trustees that the money would be used outside of the municipality, and they had an amendment to the bill, which was in 1966.

As you know, all these schools are now supported by provincial funding rather than local funding. There was a worry by the trustees that the amount being returned on the investment was going to get dissipated or would probably no longer be applied for those old purposes.

Secondly, interest rates have dropped such that the revenues from it are insignificant to reduce the taxes. It only reduced each householder's taxes by a dollar or two, plus the fact that there's a large industrial base in Tilbury, and it was getting the benefit of the taxes.

From the Kent school system, we've now gone to the Lambton-Kent system, and the trustees feel that Tilbury is rather aloof from the board that runs the schools now from Sarnia, so it wanted a change in the legislation.

The first major change is that the appointment of the trustees would be put in the hands of the municipality. There's a feeling that the municipality of Chatham-Kent-

Tilbury contributes two representatives to that body—at least there's some attachment to that—as opposed to the Lambton-Kent board, where we do not seem to send any representatives because we're a smaller community and when the elections come around, someone from some other community seems to get elected. They thought there would be no personal connection with the municipality, so they wanted the municipality itself, rather than the board, to make the appointments.

Secondly, they want to be able to use the funds for the benefit of the school itself by buying specialized equipment or such things as the board, in its normal spending operations, wouldn't provide. They want to be able to buy special things like music rooms or playground equipment etc.

The third thing the bill suggests is that not only can they spend income for those things, but capital as well. I don't think there are more than two dozen people in the municipality now who even know about Miller and the Miller trust. It was created over 40 years ago; he died in 1960. It may be that over the next decade or so, the capital of this will be turned from money into improvements to the school itself.

That's the two-minute explanation that took five, I guess.

The Chair: Thank you, Mr Taylor. I suspect there isn't much debate, but let's just check. The parliamentary assistant first: any comments?

Mr Kells: No. Everything's quite in order.

The Chair: That's what I thought.

Mr Mc—McMicken?

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): McMeekin, as in blessed are the meek, for they shall get in.

My understanding, from a cursory observation, is that this bill does in fact advance and support the desires and intent of both the original donor and the trustees.

Mr Taylor: Yes, it does.

Mr McMeekin: Good enough.

The Chair: Any other questions? Seeing none, I think we're ready for the vote. Presumably, there is no one else who wants to comment on the bill? Very good. We will proceed to the vote.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried. I'm assuming there's none opposed, so I don't have to read it in for the record.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much. The bill is passed. Thank you for coming, Mr Sponsor. Thank you, Mr Hoy.

Mr Taylor: Thank you, Mr Chair and members of the committee.

WYCLIFFE COLLEGE ACT, 2001

Consideration of Bill Pr2, An Act respecting Wycliffe College.

The Chair: We'll move on to the next group. Mr Smitherman, s'il vous plaît, venez. I call Bill Pr2, An Act respecting Wycliffe College, its sponsor, George Smitherman, and the applicants, the Reverend George Sumner, principal, Wycliffe College, and Max Marechaux, counsel, Miller Thomson LLP.

Mr George Smitherman (Toronto Centre-Rosedale): Mr Chairman, you stole my thunder. My hope this morning was only to be able to introduce the two gentlemen who are beside me, but you've done an effective job of that.

I would just say that Bill Pr2, An Act respecting Wycliffe College, is really an administrative act designed to bring Wycliffe College into pretty much the same situation that exists for other schools and colleges. So without delay, I'd introduce Max Marechaux and George Sumner and let them take it from here.

1010

Mr Max Marechaux: Mr Chair, ladies and gentlemen, thank you very much for this morning. With respect to Wycliffe College, this is a matter of housekeeping basically. When we did a review of our governance we found there were some deficiencies in the 1916 legislation, which we have cleared. It has run the gauntlet of the various committees, including Mr Maurice Cullity, who is one of the leading experts on estates and trusts. I certainly commend it to you. If you have any questions I'd be more than happy to answer them. Thank you.

The Chair: Let me read for the record the commissioners' report.

"Re: Bill Pr 2, An Act respecting Wycliffe College

"We have reviewed the provisions of the above bill. They are not, in our opinion, in conflict with the public policy reflected in the principles administered by the Superior Court of Justice in the exercise of its *parens patriae* supervisory jurisdiction over charities. On the contrary, insofar as the bill is intended to facilitate efficient administration of the property held for the benefit of Wycliffe College, it is, in our opinion, entirely consistent with such principles.

"One drafting change that would be helpful, in the event that the provisions of the bill ever require to be interpreted by a court, would be to replace the words 'the property of' in subsections 5(1), 5(2) and 5(3) with the words 'vested in'. This rather more technical language would not restrict the effect of the provisions and would be consistent with that of the original act as well as the language of public statutes such as the Charities Accounting Act and the Charitable Gifts Act and that of section 56 of the Charities Act, 1993 (UK) which is designed to achieve the same general purpose as that of the bill.

"A consequential change to section 3 of the bill would be to amend it to read:

“3. The trustees shall govern the college and manage its affairs and the property vested in it.”

“Yours very truly,

“Estate Commissioners.”

I understand the parliamentary assistant will introduce an amendment to that effect at the appropriate time.

Any other comments? Very good. Before we get to questions, we'll have the parliamentary assistant.

Mr Kells: I have nothing to add except that the Honourable Dianne Cunningham, Minister of Training, Colleges and Universities, also agrees with what you're trying to do.

The Chair: Very good. Let's get some questions, if there are any.

Mr Gilles Bisson (Timmins-James Bay): A very simple question: I take it the amendment that's being proposed is OK with you?

Mr Marechaux: Yes, absolutely.

The Chair: Any other questions? Seeing none, we'll get to the amendment as we get to the section. We're ready for the vote.

Shall section 1 carry? But I'm assuming there's an amendment here, right? So perhaps we should introduce the amendment to the section first.

Mr Kells: I find this wording a little mixed up, but maybe it's correct.

I move that section 3 of the act, as set out in section 1 of the bill, be amended by striking out “manage its property and affairs” and substituting “manage its affairs and the property vested in it.”

The Chair: That's the amendment. Are you asking for any input perhaps from anyone here to comment on that?

Mr Kells: No.

The Chair: Are the sponsors—

Mr Kells: Do you want me to read all three of them? Wouldn't that be better maybe?

The Chair: No, because that's section 1. Those are presumably in other sections.

Mr Kells: We only have one section.

The Chair: We'll vote on each one as they go. You've heard the amendment. All in favour? Any opposed? That amendment carries.

Mr Kells: I move that subsection 5(1) of the act, as set out in section 1 of the bill, be amended by striking out “is the property of the college” and substituting “is vested in the college.”

The Chair: Any questions or comments? All in favour? Any opposed? That carries.

Mr Kells: Finally, I move that subsection 5(2) of the act, as set out in section 1 of the bill, be amended by striking out “is the property of the college” and substituting “is vested in the college.”

The Chair: Questions or comments?

All in favour? Any opposed? That carries.

Mr Kells: It appears I have another one.

Mr Bisson: Yes, there's one more.

Mr Kells: I move that subsection 5(3) of the act, as set out in section 1 of the bill, be amended by striking out “becomes the property of the college” and substituting “vests in the college.”

The Chair: Questions or comments? Seeing none, all in favour? Any opposed? That carries.

Is there another amendment?

Mr Kells: No. I had four and I've read four.

The Chair: Shall section 1, as amended, carry? That carries.

Shall section 2 carry? That carries.

Shall section 3 carry? That carries.

Shall the preamble carry? That carries.

Shall the title carry? That carries.

Shall the bill carry? That carries.

Shall I report the bill, as amended, to the House? The bill passes.

Rev George Sumner: As your neighbours on Queen's Park, we're grateful. Come and stop by Wycliffe College when you can.

The Chair: Thank you very much.

Seeing no other business, the committee is adjourned.

The committee adjourned at 1017.

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Wednesday 19 June 2002

Journal des débats (Hansard)

Mercredi 19 juin 2002

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé



Chair: Rosario Marchese
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 19 June 2002

Mercredi 19 juin 2002

*The committee met at 1002 in committee room 1.*DRAFT REPORT ON 1999 AND 2000
REGULATIONS

The Chair (Mr Rosario Marchese): I'll call the meeting to order, Monsieur Bisson, do you have a question or a suggestion?

Mr Gilles Bisson (Timmins-James Bay): I have a suggestion that we switch the order, if we can, of the people here for their bill.

The Chair: No, actually, we can't. Mr Arnott cannot be here until 10:30. That's why we have it this way.

Mr Bisson: I'd be willing to present them so they don't have to sit here for 30 minutes and listen to us.

The Chair: I suspect they want Mr Arnott to be here.

Mr Bisson: We're just trying to accommodate them because we're going to be talking about some internal—it's nothing private, but it's boring to you and you're going to have to sit here for 30 minutes.

The Chair: Monsieur Bisson, if you don't mind—
Interjections.

Mr Bisson: As long as you don't mind being bored.

The Chair: We have a report: consideration of the draft report on 1999 and 2000 regulations. We're going to have Andrew McNaught do a brief review of that and then we'll take questions, if there are any. If not, hopefully we'll adopt it at the end of it.

Mr Andrew McNaught: Good morning. I'm Andrew McNaught, with the Research and Information Services branch of the legislative library. You should have in front of you a copy of standing order 106(h) as well as a copy of the committee's draft report on 1999 and 2000 regulations.

The role of the committee with respect to regulations is set out in standing order 106(h). You'll see it requires that the committee review the regulations made under Ontario statutes each year and that this review be conducted in accordance with the nine guidelines set out in the standing order. For example, guideline (ii) requires that regulations should be made "in strict accord with the statute conferring of power." In English, that means there should be authority in the statute to make the regulation.

Since 1988, my office has been conducting this review on behalf of the committee. The draft report in front of you is on regulations made in 1999 and 2000. It's divided

into three parts: part one briefly outlines the committee's mandate; part two contains some statistics, including comparisons of the number of regulations that were made in the 10 years between 1990 and 2000; and the substantive part of the report is on page 3, under the heading "Regulations Reported." It's a discussion of regulations that contain potential violations of the committee's guidelines.

As described in that section, we wrote letters to five ministries inquiring about nine regulations. In each case, the ministry acknowledged that there was a potential violation of the committee's guidelines. In most of the cases, the ministry explained that the violation was simply the result of inadvertence on their part and that they would take steps to bring this matter to the attention of their legal departments so that it doesn't happen in the future.

It's a draft report and it's subject to change at the committee's direction. Otherwise, you can simply adopt it and have it tabled in the House.

The Chair: Any questions?

Mr Bisson: Just to be clear, my understanding is that all of the regulations that are written by whatever ministries are reviewed by leg counsel. Does that end up automatically going before somebody who may flag it for the attention of this committee?

Mr McNaught: Our office just conducts this ongoing review of all regulations made each year. The Regulations Act says that all regulations stand permanently referred to the committee. So it's the committee's ongoing mandate to review these regulations.

Mr Bisson: I understand the mandate. My point is that it is not often that we actually see regulations come before the committee. Normally we see private bills here. I'm just saying that if there were regulations, such as the ones you are pointing out here, that were drafted in error by various ministries, why were they not flagged to come to this committee? The only way I would know is by reading every Ontario Gazette that ever came out.

Mr McNaught: That's what we're doing right now.

Mr Bisson: So the answer is that the only ones of concern are the ones you've flagged in this report. That's where I was going. Can you walk us through some of those and explain to us the rationale for the various ones, just so we understand?

Mr McNaught: On page 4, for example, you have three regulations that were reported for possible vio-

lations of guideline number 2, which, as I mentioned, was the statutory authority guideline. That says that there must be authority in the statute to make the regulation in the first place.

You will see there are three regulations here. The first one is 272/99, made under the Ministry of Health Act. The statute authorizes that the minister may make the regulation; in fact, the cabinet made the regulation. So technically speaking, that's a violation. There was no authority in the statute for the cabinet to make the regulation. It should have been the minister. So we brought that to the attention of the ministry. They acknowledged that that was an oversight on their part and they were going to bring that to the attention of their legal department.

Mr Bisson: They're saying it was sunsetted anyway in March 2000.

Mr McNaught: Yes. Sorry, in that case that's what they've said. So there's no point in pursuing it any further.

Mr Bisson: There is no point following it up. But cabinet made a regulation where they shouldn't have, right?

Mr McNaught: All we can do is report it to the House.

Mr Bisson: Yes, I hear you. Then can you walk us through the one under the Education Act?

Mr McNaught: The Education Act authorized the Minister of Education to make the regulation, subject to the approval of cabinet. But it turns out that cabinet had made the regulation. As I explain there, they acknowledged the error and that they would review their practices to ensure that it doesn't happen again.

Mr Bisson: This raises an interesting question then. If the minister was supposed to draft the regulation but in fact cabinet has done it, is the regulation actually in order? Technically, not.

Mr McNaught: Technically it's not.

Mr Bisson: Give me the other one.

Mr McNaught: The next one under that guideline is regulation 506/00 made under the Ministry of Health Act. In that case, the statutory authority to make the regulation had in fact been repealed in 1997. So there was no statutory authority to make the regulation. This dealt with grants for developing health resources. According to the ministry, they will be taking steps to deal with this matter. I have no way of knowing what steps were taken.

Mr Bisson: So what you have is people taking on authority to take an action for which they have no authority, in effect. All right, on to the next one.

Mr McNaught: On page 5, under the heading of "Retrospectivity," guideline number 4: that provides that a regulation can't have retroactive effect, applied to be effective on a date before the day on which the regulation was filed with the registrar of regulations. So we've raised questions about four regulations there.

1010

Mr Bisson: Let's walk through these. Under 302/99, what were they trying to do retroactively here?

Mr McNaught: In this case, the regulation took effect five weeks prior to the date on which it was filed with the

registrar. The regulation provided that it was to come into force on the day that the Electricity Act comes into force. The Electricity Act came into force five weeks prior to the date on which the regulation was filed.

Mr Bisson: What happens to the regulation in that case? Does that mean it's out of order?

Mr McNaught: It's out of order, yes.

Mr Bisson: Period.

Mr McNaught: Whether it would ever be struck down in a court is something else.

Mr Bisson: That's what I'm saying. If somebody took this to court, the court would say it's out of order, they didn't have legislative authority.

Mr McNaught: On the other hand, they might say it's a technical oversight and it shouldn't invalidate the whole regulation.

Mr Bisson: The remedy would be to write another reg. If I wanted to cover myself under the Fire Protection and Prevention Act, the minister would have to draft another reg.

Mr McNaught: It could be that, yes. And similar problems with the remaining regulations: they were retroactive by a few days. In some cases, the ministry just wasn't aware and there was a similar case to what we've just described, where the reg took effect on the date that another act came into force. They were informed that the act was coming into effect on a certain date while in fact it came into force prior to that date.

Mr Bisson: The same thing with the Tenant Protection Act?

Mr McNaught: It's the same situation there. The Social Housing Reform Act came into force prior to the date that the regulation was made. The ministry says it's going to bring the matter to the attention of its legal branch.

Mr Bisson: Prior to the reg, OK. Moving on to the next one.

Mr McNaught: The same situation there, again dealing with the Social Housing Reform Act. The regulation was filed on December 19 but the relevant section of the Social Housing Reform Act came into force—

Interjection.

Mr Bisson: All right, so the same thing. And under the racing commission—now I know why my horse didn't come in. Damn.

Mr McNaught: Again, the Racing Commission Act came into force on December 15. The regulation was filed on December 18 and the regulation provided that it was to come into force on the day that the Racing Commission Act came into force. Therefore, it was retroactive by three days.

Mr Bisson: So those are the explanations for all of those regs, right?

Mr McNaught: Yes.

Mr Bisson: So these are the only ones through all the regs that you guys have reviewed that are out of order?

Mr McNaught: No doubt there were others, but—

Mr Bisson: But we couldn't find them. That was my question originally. Does anybody actually look and examine every regulation? Because there are thousands.

Mr McNaught: In fact, all regulations are reviewed by the ministry legal branches that are responsible for these regulations, as well as the registrar of regulations in the Ministry of the Attorney General, and in some cases legal counsel, I guess, for cabinet office, if the regulation is to be made by the cabinet.

Mr Bisson: There may be others with questions. I have others but you've answered my first one.

Mr Pat Hoy (Chatham-Kent Essex): You state that the committee wrote to five ministries inquiring about nine regulations but the committee has decided to comment on seven, on page 3.

Mr McNaught: Yes.

Mr Hoy: So that was a decision that was just simply made. It wasn't a case where the ministry didn't want to answer the question; it was just a decision made.

Mr McNaught: It may have been that we said we think there might not be statutory authority for this regulation and the ministry wrote back and said, "There is, and here's the section," and we agreed. That's probably what happened.

Mr Hoy: Your answer would seem to indicate that that had nothing to do with the Health Services Restructuring Commission having been one of those under scrutiny, because we do say here that that commission no longer exists. Those other two may have been something other than the Health Services—

Mr McNaught: Yes. I'm afraid I don't remember offhand what they might have been.

Mr Hoy: But they might have been something other than that.

I think Mr Bisson talked about the remedy here might be to reintroduce another reg. On the other hand, the ministry responsible here seemed to indicate that they are taking due notice of this. It doesn't seem to me that it would be that difficult to ensure these are in sync. I don't understand why they have three days, five days, six days, whatever.

Mr McNaught: Sometimes it seems it's a lack of communication between ministries about when another act is going to come into force, or there's a flurry of legislative activity right before the Christmas break. Sometimes there are technical errors.

Mr Hoy: It would seem that maybe the House should sit more often. I have no other questions.

Mr Peter Kormos (Niagara Centre): All regulations do not have to be approved by this committee—is that correct?—and there are regulations, some of which have different sources. There are two classes of regulations?

Mr McNaught: I'm not sure what you mean. Some regulations are made by cabinet, some are made by ministries, some are made by commissions or—

Mr Kormos: Depending upon the statutory power.

Mr McNaught: Right.

Mr Kormos: You explained to Mr Bisson, and I hope I've got this correct, that the reason all regulations aren't cleared by this committee—this committee has jurisdiction to consider each and every regulation, does it or does it not?

Mr McNaught: To conduct a review of any regulation in accordance with the guidelines set out in standing order 106(h) and to report any irregularities the committee might find to the House.

Mr Kormos: At the end of the day, I understand you explained to Mr Bisson in the committee, not all regulations are put to this committee.

Mr McNaught: We only report the ones that we feel might raise a possible question about the committee guidelines.

Mr Kormos: I trust this isn't the first time you've had occasion to do this, or is it?

Mr McNaught: No, we've been doing this for many years now.

Mr Kormos: In terms of reporting back bad regs to the committee?

Mr McNaught: Yes.

Mr Kormos: Wouldn't the solution be for this committee to review all regs?

Mr McNaught: The lawyers in the legislative library do that. It may not be the in-depth review that is necessary; we have to balance our time with doing research for individual MPPs and so on.

Mr Kormos: I understand, but most committees meet two days a week as compared to one day a week. As I say, to avoid this retroactive approach, this after-the-fact approach, isn't one of the solutions to have more regulations going through this committee?

Mr McNaught: It's up to the committee if it wants to.

Mr Kormos: It's one of the options. Isn't part of the solution for this committee—unfortunately, this committee has been perceived, for the 14 years I've been here, as a sort of dumping ground, as punishment, more often than not, by whips and House leaders.

Interjections.

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Mr Kormos: I'm sorry. That's the sad reality of it—never mind the staff. But it seems to me that the committee perhaps should be considering a recommendation that it be authorized to meet at least twice a week so it can review more of these regulations, because quite frankly that's an exercise that's valuable for the three caucuses. They then have a handle on what's being passed by regulation. Granted, you could read each and every gazette that's delivered to your office, but that's far less likely to happen in a disciplined way than a review of those regs would be if this committee sat two days a week and undertook more comprehensive reviews of more regulations.

Those are my observations. I urge this committee to consider that. Most other committees, as I understand it, sit at least two days a week.

Mr Bisson: And in the summer.

Mr Kormos: And in the summer, and perhaps this committee should be doing that same work to avoid these problems.

You see, one of the problems with regs that are deemed out of order after the fact is that other people have had reliance upon those regulations. I trust—and the

research officer might counsel me, if not all of us, in that regard—it can create complications and some grief for people who rely upon those regulations.

The Chair: Any other comments?

Mr Bisson: That's where I was going with my line of questioning. It seems to me that rather having an after-the-fact—

Interjections.

The Chair: Order, please, if you don't mind. Go ahead.

Mr Bisson: First a comment and then the question. It seems to me the issue is that we should be flagged on regulations that are being written prior to them being flagged after the fact, because you could end up, as Peter suggested, in a situation where there could be some harm done as far as something being done by statutory authority through the regulation. My question is, most of the regulations are written after third reading, right?

Mr McNaught: They may be drafted at any point; I don't know.

Mr Bisson: But most of them are done after third reading.

Mr McNaught: They're published after the bill has taken effect.

Mr Bisson: That speaks to the issue, because especially on bills that caucuses take some interest on, often you'll hear us in the House saying, "We want the regulations." You're saying by way of the bill that you're giving some authority to the minister to do something in the statute, and we're calling to see the regulation and we're always told, "The regulations aren't ready. They won't be out until after third reading." So it seems to me there's some value, especially on bills that are of interest to all three caucuses—there should be a practice of us calling the regulations here once that bill's regulations are done. That's something for us to decide, not you.

My question to you is, at what point do we find out when a regulation is done prior to being gazetted? Is it only when they're gazetted that we find out?

Mr McNaught: When it's published in the gazette. Our office can only read the regulation after it's been published.

Mr Bisson: What I'm saying is, there's no other mechanism to find out until we actually see them in the gazette.

Mr McNaught: We can't see regulations before they're published in the gazette.

Mr Bisson: So there's no tie between ministries and cabinet writing regulations and this committee other than after the fact. There's no mechanism.

Mr McNaught: Right.

Mr Bisson: OK. We'll bring a recommendation next meeting.

Mr Morley Kells (Etobicoke-Lakeshore): Actually, following up the honourable member's question, you get an opportunity at the legislation level if you want to know how they're implemented. In other words, if a piece of legislation calls for an implementation reg and you have a concern about implementation, you can

always bring it up then. That's my only point. The reg isn't written, but your concern is expressed.

Mr Bisson: I just say it's not on every bill that I, as a member, want to see the regs.

Mr Kells: I know. I hear you.

Mr Bisson: Understand where I'm coming from. But if you get a bill and I've got concern and the bill says, "The minister shall do whatever by way of regulation," I can speak until the cows come home in second and third reading but it's not going to have any effect on the regulation and I won't know what that section really means until after it's gazetted.

Mr Kells: Well, I'm suggesting that by asking that question you can demand an answer from the minister on how it's going to be implemented.

Mr Bisson: And the minister's probable answer will be, "Wait until the regulations come out."

Mr Kells: Well, that's when you have an argument.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): I think Gilles has a good point there on some things. We're going to have Bill 81, our farm bill, but we're not going to see the regs till some farmer phones me and says, "I can't spread my manure today because some regulation says that."

He has a point, but I don't know how you fix that up. If we were to go over every reg in every bill, we'd meet more than twice a week.

The Chair: If I can propose, I know Mr Bisson said he was going to bring some suggestions for the next meeting for us to look at.

Mr Murdoch: OK, that's a good idea.

The Chair: Perhaps what we should do is have a subcommittee meeting where we might discuss how we might pursue this matter that has been raised today and then, based on the subcommittee report, bring some suggestions or recommendations for the committee to look at.

Mr Murdoch: But I'm to believe that the way things are right now, this committee can't see any—so let's take Bill 81. The regulations will have to be gazetted before we see them. Now, we'll say there was a problem with one of them or something and we wouldn't be able to do it till after that's all done, then we have to take this sort of process to do it. It's sort of going at the back door the wrong way.

The Chair: M. Bisson said he would have some suggestions for the next meeting. I'm saying, why don't we meet as a subcommittee to review suggestions that we might have and bring them forth for the next meeting? Is that OK?

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): A good decision, Chair.

Mr Murdoch: Yes. You get some good ideas, Gilles.

The Chair: Other comments? M. Bisson?

Mr Bisson: I think it's a good idea. We can bring it back to the subcommittee. But the problem I have is that I think the committee should have some influence on the final reg. The farm bill is a good example. We're going to get the phone calls after the fact. Some constituent is

going to call us and say, "What in heck is going on over here?" For you, as government members, and for us, as opposition members, it's in our interest to have some influence over the final reg. So what I want is that, when we do get together as the subcommittee, there's going to be some thought put through to: is there a mechanism to get the regs vetted to this committee prior to their being printed? I guess that's what I'm asking, because once they're written, far unlikely will they be amended after they're gazetted. So I'd like to have a mechanism so that if there's a bill of interest we can actually trigger the regulations here prior to their being gazetted.

The Chair: Let's see.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Mr Chairman, the thought occurs to me—I'm reminded of something my late mother used to say about none of us being as smart as all of us. I think there's a time when we need to say, "Let's have a little less democracy and a little more getting on with the job," particularly if it's issue-specific, making the assumption, which I hope is accurate, that the ministry that has the interest probably has more information.

When you're in the Legislative Assembly—I'm a relative newcomer, so maybe I'm missing something here—we on the opposition side and some on the government side lament the lack of specificity in the legislation and are frequently told, "You'll have a chance to have input at the regulation phase." Well, that's really a charade if technically you can't even see the bloody regulation before it's gazetted. So at some point we've got to either say, "That's the game we're going to play," or alternatively, "We're going to take some different kind of approach." To be frank, on most days I'm not particularly concerned which approach we take as long as we know what the rules are, but don't go saying something in the House that is patently—I can't say "untrue," because that would be unparliamentary, but don't utter terminological inexactitudes in the House if that's not how we're moving forward.

Mr Murdoch: This is what Ted said. He's so right, and just because you're new—I'm glad you've picked up on that. I've been here 12 years, and every government is the same. That's the problem with democracy: we're being ruled by regulations. We pass a bill in the House and it gives some ministry, whatever it is, all kinds of power to go out and set—and, as I say, we don't hear about it until our constituents get us. You guys can try to figure something out, but I don't know how. We certainly couldn't do all the regs, but it certainly would be nice to see a few before they're gazetted.

Mr McMeekin: Key stuff, like nutrient management.

Mr Murdoch: Yes, well, you and I want nutrient management.

The Chair: If you don't mind, the next presenters are all here.

We agreed that we would have a subcommittee to review this, and we will do that and come back and report. OK? We could either have a motion to adopt and

present this report and/or defer this until further consideration.

Mr Bisson: I'd prefer to defer it until after the subcommittee discussion.

The Chair: All right. Is there agreement?

Interjections: Agreed.

The Chair: OK, thank you.

1030

GROVES MEMORIAL COMMUNITY HOSPITAL ACT, 2002

Consideration of Bill Pr5, An Act respecting Groves Memorial Community Hospital.

The Chair: We move on to the second order of business, then, consideration of the following bill: Bill Pr5, An Act respecting Groves Memorial Community Hospital. I will read the commissioner's report for the record:

"At the request of Chief Justice LeSage, Justice G. Bourke Smith and I (the two resident Superior Court justices in Wellington county) have had an opportunity to review the above-mentioned private member's bill and the background material submitted by you.

"In our capacity as commissioners of estate bills, Justice Smith and I have considered particularly the provisions of sections 7 and 8 of the bill.

"I wish to advise that we agree that there is no reason why, in our view, the bill, and in particular sections 7 and 8 thereof, should not pass into law.

"If you have any questions or further requirements, please do not hesitate to advise.

"Yours truly

"C.N. Herold

"Justice

"G.B. Smith

"Justice."

The sponsor is Ted Arnott. Ted, please bring forth the other applicants with you. They can introduce themselves when they come up.

Mr Ted Arnott (Waterloo-Wellington): I have just come from a Habitat for Humanity build and haven't had a chance to change my clothes, so I apologize for my dishevelled appearance.

The Chair: Not to worry.

Mr Arnott: Thanks to you and the committee members for considering our issue today. This bill is very important to the community of Centre Wellington, all of Wellington county and Waterloo-Wellington, and especially important to me, because it was at the Groves Memorial Hospital that I drew my first breath 39 years ago. My three sons have been born there too. It's a very special hospital for our community.

I'll introduce the people who are here with us at the table: Mayor George Pinkney, mayor of Centre Wellington; Carolyn Skimson, who is the executive director of the Groves Memorial Hospital; Kathy O'Brien, who is the solicitor; and Cavan Acheson, as well, who is acting as a solicitor today. These are the applicants. I'll turn it over to whoever is going to be speaking first.

Ms Kathy O'Brien: I think that's me. We're just delighted to be here today. It has been a long process.

As Ted mentioned, I'm Kathy O'Brien. I'm solicitor for the hospital, one of the applicants of the bill. To my right is Cavan Acheson, who is solicitor for the township of Centre Wellington, also one of the applicants of the bill. We want to give you a brief background of the bill this morning, which my colleague Cavan is going to do, and then I'm going to talk about the purposes and benefits of the bill and specifically about some of the input we received from the Ministry of Health and Long-Term Care and how we responded to that. I'll turn it over to you, Cavan.

Mr Cavan Acheson: The Groves Memorial Hospital came into existence in 1902 as the Alexandra Hospital. Dr Groves was our local doctor, and he founded the hospital almost exactly 100 years ago. In 1932, as he was getting on in years, he made a very generous gift of the hospital facility to the local municipality, then the village of Fergus. That gift had to be ratified and approved through provincial legislation. A private bill was passed in 1932 as the Village of Fergus Act. At that time, the conduct and management of the local hospital were entrusted to five trustees known as a commission, who were appointed by the local members of the village council.

In 1954, after the village was raised to the status of a town, it was realized there was a need at that time for an upgrading in the provisions of the act, and the hospital commission then was expanded to include two members of the local council and between 10 and 16 other persons in the community, as appointed by council. These appointments occur annually at the first meeting of council in each year, under that legislation.

In 1998, the town of Fergus became amalgamated with other local surrounding municipalities, including Elora, Nichol, Pilkington and West Garafraxa, as the result of a minister's restructuring order.

For the last four or five years, both the local hospital board and the local township council have been working toward a solution to bring the legislative status, if you will, of the hospital up to date. The bill that you have before you today represents three or four years of fairly significant negotiation, discussion and public meetings that have taken place concerning the governance of the hospital.

The bill that you have before you, which Kathy will go through in more detail, reflects the wish of the local community and the board to continue to have a connection between the local municipal government and the hospital. The connection, in this case, is kept in terms of the formal appointment of the board members, based on names put forward to it by a nominating committee from the existing hospital board.

The hospital has been governed by the Village of Fergus Act, the Town of Fergus Act, and now, in the 100th year after the founding of the hospital, it's appropriate that the legislation itself reflect the generosity of the original founder of the hospital, Dr Groves. He is a

very important historical figure for our community. In addition to being, obviously, the main medical person in the community, he was also quite an entrepreneur and was responsible for introducing electric light in the streets of Fergus and Elora, and he ran a local flour mill. He is an important historical figure for our community and there is, therefore, a great wish to maintain a community connection between the local government and the hospital.

I would now ask Kathy to review with you in more detail the specifics of the bill that is in front of you.

Ms O'Brien: In short, the primary purpose behind the bill is to incorporate Groves Memorial Community Hospital. I work for a law firm that represents about 70 public hospitals across the province. To my knowledge, Groves is the only hospital in Ontario that doesn't have the benefits of incorporation right now.

The benefits of incorporation that we see coming out of this bill are, first of all, that the governance of the hospital is going to be clarified. It's going to be clear that the hospital board is the entity that's entitled to make decisions on behalf of the hospital—set the strategic direction for the hospital. There's been some confusion in the past about who's entitled to sign and contract on behalf of the hospital. Even though the legislation makes it clear it's the hospital commission, which is what we call the hospital board, sometimes there is confusion in the public and at the municipal level about who does what.

It gives the hospital the powers of a natural person, which basically means the hospital can sue, be sued, contract—powers that all other hospitals take for granted. It clarifies the fiduciary obligations of appointees from the township who sit at the hospital board level. Whom do they represent? Whose interest do they act in the best interest of? It's clear, once the hospital is incorporated, that those township appointees are directors of the hospital and have to act in the best interest of the hospital.

It also gives the hospital updated corporate objects. Its objects right now are contained in, as Cavan mentioned, quite antiquated legislation. The objects will now allow the hospital to take on other health care initiatives like long-term care, home care services—initiatives that other hospitals in the province are taking on.

There are also additional benefits to the bill other than just incorporation. Importantly, it permits the hospital to have a community membership. It will turn it into a non-share corporation, which means it will have a non-share membership. Those members will have the right to participate in hospital corporate meetings to receive financial information about the hospital, to appoint auditors and basically just give the community members who want to be members of the corporation a forum to voice their comments about the hospital.

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The bill also provides that in the event that the township of Centre Wellington is restructured, and by "restructuring" we mean expanded or amalgamated with surrounding communities, the community membership at

that point would have the power to also elect a majority of the directors on the hospital board. The reason that's there is—to elaborate on what Cavan had said—it's important for the community that there be a strong link right now between the township council and the hospital board, because the view in the community is that the township council are elected representatives of the community. Accountability is fulfilled that way. Once the township amalgamates, expands, becomes significantly larger, the township council ceases to represent the community who are the immediate users of the hospital. So that's why we have that trigger in there.

The bill also transfers ownership of certain property that has been used by the hospital for many years to the hospital corporation. This excludes the hospital lands. We decided it would be just as easy to maintain ownership of the hospital lands with the township, but it is held in trust for the hospital and the bill makes it very clear that the municipality cannot make any disposition or do anything significant with that land without the approval of the hospital and any regulatory authorities like the Ministry of Health, which is just consistent with the Public Hospitals Act and with trust law.

As Cavan mentioned, the process for arriving at this bill has been a lengthy one. There were, between March 1999 and May 2000, five joint meetings between the hospital board and township council. There were in addition two community meetings where all members of the local community were invited to attend and to ask questions, and presentations were made explaining the various drafts of the bill. So we really, truly believe that there has been very significant community participation in getting to where we are today.

The last issue I want to address just for your benefit is input that we received from the Ministry of Health and Long-Term Care, which is of course the regulatory body governing the hospital. When we were first drafting the bill and this whole idea of incorporation came up, Carolyn Skimson, the executive director of the hospital, approached the ministry for guidance about the governance structure of the hospital and asked for policy, for white papers, for anything that would give us guidance. There's nothing in the Public Hospitals Act that dictates what the governance structure of a hospital has to be. There's nothing in the regulations either, under the Public Hospitals Act. There's just a requirement for a certain number of doctors to be on the board.

While we were drafting the bill we got very little input from the ministry and essentially were told that all we could refer to were the directions that the Health Services Restructuring Commission had made in communities in Ontario. We came up with a local solution, and the local solution is as we discussed. Currently the township council appoints a majority of the board. That doesn't change when this bill comes into effect. We have kept the same governance structure and we have kept the same link to the municipality.

In April 2001, after we had submitted the bill for consideration, we received a letter from the ministry that

first of all set out the ministry's complete support for the incorporation of the hospital and all the benefits that derive from incorporation. The ministry did express a concern at that time about the governance structure that we had come up with as a local solution. The ministry said in their letter that they would prefer the hospital board to be elected by members of the corporation from the start, and those members of the corporation would be representative of the community. They preferred this to the model that we had come up with, which was the township council appointing the majority of board members. The ministry felt that the council appointment approach was inconsistent with what other hospitals do and was inconsistent with recent governance reviews of hospitals.

When we got this recommendation from the ministry we took it very seriously. We set up an immediate meeting between council reps, board reps, hospital board reps and the ministry reps to talk about the ministry's views and to talk about our own local solution. That led to yet another joint meeting of the hospital board and the local council, which took place on June 19, 2001, for the sole purpose of considering the ministry's recommendations. Two ministry representatives were in attendance and made a presentation to us.

The hospital thought very, very carefully about the ministry's recommendations, as did the township. At the end of the day, the hospital board came to the conclusion that the local solution that we had come up with essentially met the ministry's concerns about accountability in spirit, if not in letter.

We think our own local solution does require accountability between the hospital board and the community. There will be an open community membership. There will be a nominating committee—this is established not in the bill but in bylaws we've already agreed upon between the hospital and the council—and that nominating committee is going to contain community members. That nominating committee is going to be required to publicly advertise for people who are interested in serving on the hospital board. It's going to put together a list of the best, most qualified candidates who have been found through the search process. It's going to ultimately submit to the hospital board a list of those candidates it thinks are the best, and that list is then going to be presented to council for sign-off. The council, as elected representatives of the community, represent the accountability between the hospital board and the community. In fact, this is pretty much exactly how the hospital board is appointed today.

I also want to point out that, in considering the ministry's recommendations, we were mindful that there are other hospitals in Ontario where directors are not elected by community membership. There are other hospitals in Ontario that don't comply with the ministry's preferred solution. Those are: denominational hospitals, where directors are appointed by a religious organization; civic hospitals—many of these have been done away with, but we know of at least one civic hospital that remains where a municipality appoints the majority of

the board; finally, there a number of hospitals around the province where the hospital board is the corporate membership and there is no open community membership. So, really, the governance structures do run the gamut, and ours is just one particular kind of structure across Ontario.

Also, in taking into consideration the ministry's recommendations, we were mindful that, as I've said before, there is nothing in the Public Hospitals Act, there is nothing in the regulations and there is no written ministry policy or white paper that sets out how a hospital board should be structured or how the governance of a hospital should be structured.

The Ministry of Health is not represented here at committee today. We would like to think that that absence is ultimately a show of support for what we have come up with: a local solution with accountability.

Finally, I just want to say, if there ever is in the future any concern about the governance structure of Groves hospital or any hospital across the province, the ministry has ample remedy under the Public Hospitals Act to appoint a supervisor, as it has done in recent circumstances in Hamilton and Ottawa, and to take over the board.

That's the conclusion of a description of the bill.

Did you have anything further to add, Cavan?

Mr Acheson: No, I have nothing further at the moment, but I would invite maybe the hospital's director to make some comments.

Ms Carolyn Skimmon: Following more than five years of focused work on this bill, the hospital is most anxious to move ahead to realize the benefits inherent in our proposal. Those benefits, I think, have been clearly outlined by Kathy and Cavan this morning.

As a 100-year-old small community hospital in a rural area of approximately 32,000 people, the hospital is seen in the community as a key institution, with a great deal of community pride and a true sense of community ownership.

We've recognized from the outset of this initiative in the preparation for this bill that community anxiety was raised throughout the period that the council and the hospital were preparing, negotiating and working through to come to the best solution. It's been clear to us that the community would not support comfortably a direction that was not endorsed by both the municipality and the hospital board together.

Furthermore, it's been our belief that the confidence of the community and the hospital and the support of the community would be endangered if the direction of the bill was not supported by the municipality.

With this recognition, the hospital and the council have worked very hard to come to what we believe is the best locally generated solution we can achieve. With this bill being brought forward, we believe we have effectively recognized and respected the Ministry of Health directions, and I think Kathy has spoken very clearly to that while respecting the input of local stakeholders. Therefore we're very pleased today to be here to address the committee.

Mr Acheson: Mr Chairman, I would invite Mayor Pinkney to make any comments from his perspective.

The Chair: OK.

Mr George Pinkney: I think every presentation that's been made so far clearly indicates we wish this bill to go forward. Groves hospital is celebrating 100 years of service to its community this year. I think my particular comment is that the government of today, we hope, will support local solutions that are being recommended after five years of many productive meetings and discussions.

The Chair: Thank you, sponsor; thank you, applicants. I'm going to ask to see if there are any other supporters and/or opponents of the bill who would like to present their opinions.

Seeing none, I would alert everyone to the letter that we've received from Joan Aitchison, who is stating her objections to this. I think you've all received that, and I thought I would put that on the record.

Mr Kells, do you have any comments as a parliamentary assistant before I get to the questions from the members?

Mr Kells: Actually, no. The Ministry of Municipal Affairs has no objection. Counsel indicated that there isn't representation from the Ministry of Health here today. I wouldn't want to assume that that's support for the bill. I would rather assume that they're not going to be here to object to it. In a roundabout way, the Ministry of Health has removed any objection to the bill.

The Chair: Questions and/or comments by the members?

Mr McMeekin: Like the parliamentary assistant, I don't put—in terms of reflecting on the absence. Around this place, absence sometimes means you don't support something. If there's a bill that your party wants to support but you don't support it, you absent yourself from the House so as not to tick off your colleagues. This place is maybe an anomaly. I just offer that up to the solicitor.

I remember being told as a kid that on matters of principle you should stand like a rock, but on matters of taste you should swim with the stream. If I understand this correctly, Your Worship, you and your council are in support of this, the Ministry of Municipal Affairs has waived any concerns, the hospital board is there, and it appears to be a community solution. Most importantly, the outstanding member from the area is here in support of it as well.

There is a multiplicity of governing structures. It has already been highlighted to us that these are within the parameters of those guidelines and we should get on with embracing this locally developed solution.

Mr Bisson: I'm just going through this letter from Mrs Aitchison. I haven't had a chance to read it all, and unfortunately I wish I did, but she raises a number of things in here, and I'm a little bit confused by the letter—or by your presentation. I'm not sure which, yet.

As I understand it, as I read the bill, the governance of the hospital will be by a majority of board members that are appointed by the township, right? I read Mrs Aitchison's letter and she writes, "One of our major

concerns is that new board members should still be appointed by council rather than just being appointed by the board." I'd just like you to explain that for me, because she seems to be flagging the complete opposite of what's in the legislation. Ted, as the local member, I defer to your experience in the riding to explain to me what that's all about.

Mr Arnott: I'm not sure. I haven't had a chance to peruse the letter—

Mr Bisson: What a politician.

She seems to be indicating that she wants, as I understand it, council to have the majority control of the board. I'm reading the legislation as doing that, so I'm wondering what the argument here is.

Mr Acheson: I think there shouldn't be an argument about that part of the letter. I believe that the bill you have before you achieves that, in that the council does have the final power of appointment of the board of directors for the hospital under this bill. This is interpretive on my part and on dangerous ground, but I think that her concern was aimed maybe at what she perceives to have been Dr Groves's original intent in making—

Mr Bisson: What was his original intent?

Mr Acheson: That he was donating the physical hospital structure to the village. He entered into an agreement with the village council, and therefore I think she believes the historical connection is directly with the council itself rather than with the board of trustees or board of governors, which were in fact set up under the legislation.

Mr Bisson: So basically what she's worried about is that she sees this legislation as possibly doing away with that and putting all the control into the hands of the administrator. But the reality, as I understand the bill, is it's going to be the township that is going to have control of the board and you answer to the board. Correct?

Ms O'Brien: Correct.

Mr Bisson: That answers that.

Second, she talks about the amalgamation and asks why you put it inside the legislation. I actually underlined that under section 6 of the bill—was it section 6? No, I guess it was it was under section 4. She raises the question, why you are putting that in the bill after you have already had your amalgamation. Are you worried about a future amalgamation? I've already heard your answer, but she seems to worry about that. Maybe for the record you could just—

Mr Acheson: I can comment from the input we've had in drafting the legislation initially. Obviously this initiative came about largely as a result of the last restructuring in 1998-99, bringing five or six municipalities together. In that environment, it's felt that other restructurings could occur in the future and we don't wish to have to come back each time for an amendment, for a private bill. I think the solution that's reflected in the bill continues to tie the control of the hospital to those persons who live within the hospital's catchment area and still provides a political connection in that environment. Even though after restructuring the local members

of the corporation would at that point elect the board of directors, there would still be a political connection there.

Mr Bisson: The other point she makes in the letter—I take it the answer is, currently you don't have to disclose the salaries of people over \$100,000 because you are exempt because of your stature as a hospital, right?

Ms Skimson: In fact, my salary was disclosed. It is required, and it was disclosed.

Mr Bisson: OK. I didn't think it was because you weren't a corporation.

Ms Skimson: We are required as a public institution, and my salary was disclosed by Hamilton Health Sciences in the Hamilton newspapers, because they indeed pay my salary.

Mr Bisson: That was one of the things she raises here. Just for the record, I don't like that legislation. I think it's nuts. Quite frankly, I trust boards. In that particular case we shouldn't be sort of fanning that around.

Back to the legislation, the other thing—are there any others before I go on? I have other questions.

Mr Hoy: I just had a question here. The Groves Hospital Volunteer Association was opposed to this, at one point at least. Now I notice in the composition of the board that the president of the volunteer association would be one of those members. Are they more supportive today because of that inclusion?

Ms O'Brien: Can you speak to that, Carolyn?

Ms Skimson: Yes. The president of the Groves Hospital Volunteer Association is on the board and has been for many years. The comment about the volunteer association not being in support: there may have been an expression from a member of the volunteer association; however, the volunteer association is in support of this solution.

Mr AL McDonald (Nipissing): I come from a small northern town of about 56,000, so I can understand the struggle you're going through.

Mr Bisson: We call those cities where I come from.

Mr McDonald: I just need to get something clear. The municipality is going to continue to own the hospital in trust—is that correct?—and the council will nominate or approve the majority of the board you are proposing?

Ms O'Brien: Yes, that's virtually correct. The municipality is going to continue to own the hospital land. The buildings, equipment etc are being transferred to the hospital corporation. And, yes, you are right: the municipality is going to continue to appoint 11 of the 18 directors, but this will be done through a nomination process that involves the community.

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Mr McDonald: So the community will have lots of input. I'm going through the history of my community, and I know there was a concern that sometimes the elected board doesn't put on a board that's truly representative of the community. I know the board that is there now approves and looks for different sectors of the community to come on the board. I guess I'm asking the hospital, are you comfortable with the fact that council will still basically control the hospital?

Ms Skimson: The act that is brought forward does enable us to have community membership, which we cannot do at this time. Through the bylaws to be enacted to be consistent with this bill, the community membership will be represented on the nominating committee. The nominating committee will be made up of six members: two from the community membership, one from the municipality and the rest from the board. What we see is embodying in our bylaws the requirement of a nominating committee process that does incorporate community input, does have a very carefully orchestrated process to ensure the strengths and skills that are needed and to ensure good succession planning. Then that would be forwarded to the municipality to support the appointment.

To date in our process, as Cavan Acheson has noted, this is consistent—not the nominating piece; the nominating piece in fact is new over the last three years, since the amalgamation of the municipalities. But we have had the process of the council appointing the board in the past, and the council has not violated that trust. Certainly with the increased accountability of the community membership involvement, our belief is that accountability to the community is enhanced, and I think accountability of council to the community will be enhanced through this process.

Ms O'Brien: If I may make just one additional comment, actually clause 5(2)(e) of the bill talks about the composition of the board immediately after the bill comes into effect. Those 11 persons who are appointed by the township council must be “representative of the public within the catchment area.”

Mr Bisson: I didn't catch that when I read the legislation at first. The way I understood it, there would be three appointees from the township and the rest would be elected through the membership of the corporation.

Mr Acheson: Following a restructuring of the municipality, that would be the case. But as of right now, with the municipal boundaries the way they are now drawn, the legislation calls for the local council to receive the recommendations of the nominating committee and the existing hospital board as to who the new slate of directors should be. Eleven persons who are representative of the public within the catchment area are to be appointed by the township council. So you've got two checks here to make sure the hospital board truly reflects the community: first, the nominating committee process; and second, indirectly, because the council itself represents the vast proportion of the catchment area.

Mr Bisson: That will be the process after the legislation is passed?

Mr Acheson: That is correct. Right now that is happening de facto under the old Town of Fergus Act, but it is not a requirement. It would be possible for the municipal council of the day to appoint 11 people, although it's intended to be between 10 and 16, who were not truly reflective of the community. So it's important to get the change.

Mr Bisson: I'm a little troubled by that, to tell you the truth. I agree with the township having representation on

the board. That makes ultimate sense to me. But it would seem to me that if you have a hospital corporation that has members, it would be like every other hospital and we would have an election within those members to appoint our board. Explain to me the rationale why it has to be rubber-stamped by the municipality. For example—and I'm not saying this is the case currently—what happens if the mayor or council doesn't like a particular individual because they see them as an opposition force—that may be a good or a bad thing. They could be blocked from getting on the board. Explain to me the rationale on that one.

Mr Acheson: I believe the debate that has taken place in the community has been hot and heavy, particularly in this area, over the last while, and I think the compromise that was reached addresses both concerns. One, there is a nominating process from a corporate membership, which at this point doesn't exist, because the present legislation doesn't contemplate it, so we're incorporating that concept. At the same time, we have the elected members of the municipal council making the appointment based on recommendations. We know the municipal council represents the vast majority of the catchment area in terms of their interests. There is no perceived assurance that once the corporation has a membership, that membership will in fact be reflective of the entire community.

It's conceivable, and it does happen with many non-profit corporations, that you end up having a board of directors who end up being the only members of the corporation and therefore are not truly reflective of the community at large. Given the historical connection of this hospital with this community, the community, rightly or wrongly, perceives and has worked toward maintaining that political connection to give a true reflection of the community at large.

Mr Bisson: I was just wondering about your comments on this, Ted. I was just trying to think if any of the hospitals in my riding had a process by which municipal councils could veto a duly appointed person. There would be hell to pay. Explain to me: should I be supporting this legislation?

Mr Arnott: Absolutely.

Mr Bisson: Tell me why.

Mr Arnott: I have absolute confidence in our municipal councils to pick good, qualified people to serve on the board. I think the process that has been set out is a good one.

The Chair: I think we're ready for the vote, don't you?

Mr Murdoch: Yes, let's move on.

The Chair: We are ready for the vote.

Mr Bisson: No, we're not. I have another question.

The Chair: OK, Gilles, go ahead.

Mr Bisson: Thank you very much, Mr Chair. In regard to section 6, all you're doing there is transferring the property that is being held in trust by the township to the hospital after this bill is passed. That's all that does in section 6?

Ms O'Brien: Yes.

Mr Bisson: I'm going to back up. Under clause 5(4)(b), you basically say that three members—I take it that's of council—of the restructured municipality who, for a continuous period of at least three months, have resided or been employed or carried on a business in the catchment area. Why is that in there? If they're municipal councillors, I take it they're from the area. What's that for?

Ms O'Brien: This refers to what the hospital board would look like in the eventuality the township is restructured. We want to make sure the representatives who are on the board at that point from the council actually live in the catchment area, the service area, of the hospital.

Mr Bisson: That is the trigger. OK, I've got you.

Ms O'Brien: This is the crystal ball looking into the future.

Mr Bisson: I was wondering why. Now I know.

The Chair: We're ready for the question.

Shall section 1 carry? Any opposed? Carried.

Shall section two carry? It carries.

Shall section 3 carry? That carries.

Shall section 4 carry? No objections.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Is there any other business?

Mr Arnott: I just want to thank the committee members for their excellent questions and for their support.

The Chair: Thank you all for coming. The committee is adjourned.

The committee adjourned at 1108.

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**Standing committee on
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 26 June 2002

Mercredi 26 juin 2002

The committee met at 1001 in committee room 1.

1397399 ONTARIO INC. ACT, 2002

Consideration of Bill Pr8, An Act to revive 1397399 Ontario Inc.

The Chair (Mr Rosario Marchese): I call the meeting to order. Good morning, everyone. We are considering the first item of business, and that is Bill Pr8, An Act to revive 1397399 Ontario Inc; sponsor, Raminder Gill. Good morning M. Gill, substituting for John O'Toole. Do you have any comments before we invite the applicants?

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): I do, Mr Chair. First of all, I want to give you thanks for allowing me to present this case on behalf of another esteemed member of this Legislature, John O'Toole. I'm here this morning, Chair and members of the committee, trying to revive 1397399 Ontario Inc, a Sears Canada store. I have with me Hartley R. Nathan, who is a lawyer with Minden Gross Grafstein and Greenstein.

I would ask Mr Nathan to perhaps shed some light on this case.

Mr Hartley Nathan: The situation is that back in April 2000, a purchaser, Mr Boomsma, bought the shares of the company and the vendor's solicitor undertook to file the form 1 notifying the ministry of change of directors and officers. He filed a form 1 that removed his client, the vendor, as director and officer, but failed to add the name of the purchaser as the new director and officer. As a result, the ministry sent notices to the corporation, but because the corporation's address was incomplete and it was in a strip mall, all the notices came back and, ultimately, the ministry cancelled the charter. There's no procedure under the Ontario Business Corporations Act to revive the charter. Hence the application for a private member's bill to revive the charter to enable the corporation to file corporate tax returns and, hopefully, pay some corporate taxes to the province, which they are unable to do right now.

The Chair: Thank you, Mr Nathan. Any further comments, Mr Gill?

Mr Gill: No, Mr Chair.

The Chair: Very well. Parliamentary assistant, any comments on this bill?

Mr Morley Kells (Etobicoke-Lakeshore): None whatsoever. We're pleased to support the bill.

The Chair: Very good. Any other questions and/or discussion? Then I think we're ready for the vote.

Shall section 1 carry?

Shall section 2 carry? I'm assuming there's no opposition when I move on.

Shall section 3 carry?

Shall section 4 carry?

Shall section 5 carry?

Shall section 6 carry?

Interjection.

The Chair: We are going to shift back to the appropriate bill.

Interjections.

The Chair: You see, once we moved beyond section 3, it was, "Where's section 4?" Is that what you were asking, Mr Nathan?

Interjections.

The Chair: We'll start all over again.

Shall section 1 carry?

Shall section 2 carry?

Shall section 3 carry?

Shall the preamble carry?

Shall the title carry?

Shall the bill carry?

Shall I report the bill to the House?

Very well. Thank you, Mr Nathan. Thank you, Mr Gill.

Mrs Claudette Boyer (Ottawa-Vanier): Chair, could I just ask a sub-question?

The Chair: Yes.

Mrs Boyer: Last year, in the course of the year, didn't we decide that with these acts to revive a company or something, it would be automatic that it wouldn't come back here, or did it not go? I think it was last year that we did that, during the course of the year.

The Chair: Is anybody familiar with that?

Mrs Boyer: It's just a question of clarity. I recall during one of our meetings—

The Chair: Last year.

Mrs Boyer: —last year, we had a lot of these acts to revive numbered companies. I remember that somebody made a motion that we should try that they not come back here; it would be automatic that they would—

The Chair: That they would proceed.

Mrs Boyer: Yes.

The Chair: That they wouldn't come back.

Mrs Boyer: That's right, and I think Mr Hoy remembers that, too.

Mr Hoy: That they wouldn't come here at all.

Mrs Boyer: They wouldn't come to this committee.

The Chair: I'm not quite sure how we deal with that question. Does somebody—

Mrs Boyer: I just wonder if we did something with that, that's all.

The Chair: Yes, but given that I wasn't here then, it's hard to comment on something with which I'm not familiar. Is somebody else familiar with this?

Mr Gill: Was this something about the revival of companies like this?

Mrs Boyer: Yes.

Mr Gill: OK. I think the idea was that there was some discussion that on minor issues like this, perhaps there should be less red tape, that maybe there should be a shortcut method of doing that. But I don't know—

Mrs Boyer: And not coming back here.

Mr Gill: I don't know where it went after that.

The Chair: What I will undertake is to locate that motion because I'm assuming there was a motion to that effect, and then we'll review it, OK? We'll bring it back to the committee for discussion, if need be.

Mrs Boyer: So that I remember what went on in the meeting.

Mr Gill: Which makes sense in terms of some minor stuff like this, if there's an easier way of doing something.

The Chair: You're quite right. If there is, we'll look at it, and if it involves the committee, we'll come back and discuss it with the committee and/or review it with the subcommittee first, perhaps, and see when we come back. Very well.

ROYAL OTTAWA HEALTH CARE GROUP/SERVICES DE SANTÉ ROYAL OTTAWA ACT, 2002

Consideration of Bill Pr10, An Act respecting Royal Ottawa Health Care Group/Services de Santé Royal Ottawa.

The Chair: On to the second bill, Bill Pr10, An Act respecting Royal Ottawa Health Care Group/Services de Santé Royal Ottawa; sponsor, Mr Patten. Good day.

Mr Richard Patten (Ottawa Centre): Good morning, ladies and gentlemen.

The Chair: Perhaps you can introduce the applicant.

Mr Patten: Yes, I'll introduce my colleague Mr Greg Kelly, who is representing the hospital as legal counsel and is here to answer any of the legal implications of this particular bill, which is fairly straightforward in the preamble.

It's great to be in this position. Can I now talk about the environment and a variety of other things?

Interjection: No.

Mr Patten: OK.

The Chair: Whatever you like.

Mr Patten: Would you like to talk just briefly about the bill?

Mr Greg Kelly: Just very briefly, by way of background. I think the preamble captures it, but this is very antiquated legislation, as you can see. It relates to the days when the Royal Ottawa Hospital was a TB sanatorium. So it really doesn't reflect its ongoing nature, the fact that it operates out of two principal sites. Its objects have very much changed over the years, as has its board.

The bill has the support of the city of Ottawa and the Lung Association, which had been historically closely tied to the hospital by this legislation. They both wish to be out of the picture, and that's in large part what the bill is about. The Ministry of Health, of course, is supporting this and has consented to the issuance of new letters patent. So the new hospital, if the bill is allowed, will be governed by the ministry under the Public Hospitals Act and the Mental Health Act. I think that's essentially it, unless there are questions that I can answer.

The Chair: We'll find out in a minute. Mr Patten, anything further from you?

Mr Patten: No.

The Chair: Mr Parliamentary Assistant, anything on this bill?

Mr Kells: We're happy to support the bill from the Ministry of Municipal Affairs.

The Chair: Very well. Any questions from the members? Seeing none, we're ready for the vote, then. I've got the right bill.

Shall section 1 carry?

Shall section 2 carry?

Shall section 3 carry?

Shall section 4 carry?

Shall section 5 carry?

Shall section 6 carry?

Shall section 7 carry?

Shall the preamble carry?

Shall the title carry?

Shall the bill carry?

Shall I report the bill to the House? That's carried.

Thank you, Mr Patten.

CITY OF OTTAWA ACT (REMEMBRANCE DAY), 2002

Consideration of Bill Pr3, An Act respecting the City of Ottawa.

The Chair: Moving on to the next bill, Bill Pr3, An Act respecting the City of Ottawa; sponsor, Mr Gary Guzzo; the applicant, the city of Ottawa, Anne Peck. Welcome to you both.

Mr Garry J. Guzzo (Ottawa West-Nepean): Thank you, Mr Chair. Ms Peck is the solicitor with the city and she will speak to the bill and a proposed amendment, I believe.

Ms Anne Peck: Good morning. This is an application by the city of Ottawa for private legislation to permit city

council to enact a bylaw to close retail establishments within the city until 12:30 on Remembrance Day.

As you're aware, the city of Ottawa has recently undergone an amalgamation of 12 municipalities. Similar legislation to this had been in place in the former city of Ottawa since 1967. The proposed legislation would harmonize the provisions across the new municipality. Neither the current Municipal Act nor the new Municipal Act that comes in in January 2003 permits closures for half-days. City council felt it was important to recognize the significance of Remembrance Day in the nation's capital, yet maintain flexibility for retailers by remaining open in the afternoon and evening.

A notice of application was advertised for four weeks. There were no objections, to my knowledge, and we did receive a letter of endorsement from the Royal Canadian Legion, which I've forwarded to the clerk.

I would ask that the committee recommend the bill for approval.

The Chair: Very well. Thank you. Anything further, Mr Guzzo?

Mr Guzzo: Nothing, sir.

The Chair: Parliamentary assistant?

Mr Kells: As long as the bill is in the form that I see it in front of me, we have no complaints whatsoever.

Ms Peck: It is.

The Chair: Questions?

Mr Dave Levac (Brant): Just a compliment to the organization for bringing the bill forward. I respect the fact that you sought the legion's endorsement for that as well. Just a comment of congratulations for doing the right thing for our veterans.

Ms Peck: Thank you.

The Chair: Anything further? Seeing no other comments from anyone, I think we're ready for the vote.

Shall section 1 carry?

Shall section 2 carry?

Shall section 3 carry?

Shall section 4 carry?

Shall the preamble carry?

Shall the title carry?

Shall the bill carry?

Shall I report the bill to the House? That has passed.

Thank you, Mr Guzzo, and thank you, city of Ottawa, Anne Peck.

OK. Seeing no other item of business, we're adjourning.

Interjections.

The Chair: No, we have another item on the back of the page. Now I think you'll want to come back.

DRAFT REPORT ON 1999 AND 2000 REGULATIONS

The Chair: I have number 2 here, on the back of the page: consideration of draft report on 1999 and 2000 regulations.

Mr Kells: I move that we accept the report.

The Chair: Its acceptance and reporting to the House?

Mr Kells: Yes.

The Chair: So moved by Mr Kells. Any discussion? All in favour? That carries. Thank you.

We can now adjourn.

The committee adjourned at 1014.

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**Standing committee on
regulations and private bills**

**Comité permanent des
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Wednesday 27 November 2002

Mercredi 27 novembre 2002

The committee met at 1005 in committee room 1.

ELECTION OF ACTING CHAIR

Clerk of the Committee (Mr Katch Koch): Honourable members, it is my duty to call upon you to elect an Acting Chair. Are there any nominations?

Mrs Claudette Boyer (Ottawa-Vanier): I nominate Pat Hoy.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Seconded.

Clerk of the Committee: Mr Hoy, I declare you elected Acting Chair.

The Acting Chair (Mr Pat Hoy): I'll call this meeting to order and call Bill Pr11, An Act respecting the Town of Erin.

TOWN OF ERIN ACT, 2002

Consideration of Bill Pr11, An Act respecting the Town of Erin.

Mr Ted Arnott (Waterloo-Wellington): It's always a privilege to be in attendance at a meeting of the committee on regulations and private bills. Today I'm bringing forward a bill on behalf of the town of Erin. For nine years it was my responsibility and my privilege to represent the town of Erin in the Ontario Legislature, but after redistribution, the town of Erin was taken out of the riding. It is now represented by the member for Dufferin-Peel-Wellington-Grey, who is also the Premier. As all of us know, members of the executive council are prevented by the standing orders from introducing private bills, so I was asked to introduce this one on behalf of the town of Erin.

With me today is Stephen Garrod, who is the solicitor for the town of Erin. I'd like to ask Stephen to come forward and make a presentation on the purpose and scope of the bill so that members are aware of why it's coming forward today.

Mr Stephen Garrod: Thank you, Mr Chair, and members of the committee. We appreciate the opportunity to speak to the committee this morning. As Mr Arnott has indicated, my name is Stephen Garrod and I'm the lawyer for the town of Erin with respect to this matter.

The town of Erin was created five years ago by a minister's order that amalgamated the former village of Erin and the former township of Erin and created the new town of Erin from those two municipalities. This was a voluntary amalgamation which was done, and the minister's amalgamation order at the time provided that all of the former bylaws of the two former municipalities would expire and cease to have any effect at the end of this year, December 31, 2002.

It was anticipated at the time of the amalgamation order five years ago that that would be sufficient time to complete the task of revising all of the former bylaws and updating them. As the material that was filed in support of this bill indicates, a considerable amount of work was done by the new municipality in that regard. More than 50 bylaws were replaced and updated. However, it has simply been administratively impossible for the municipality to complete that task by the time available. In addition, there are number of single-purpose bylaws which really shouldn't expire. They should remain in place and do not need to be replaced and shouldn't expire.

The bill that is before you is a single-purpose bill. It's really quite simple in its effect. It provides that, notwithstanding that restructuring order, the former bylaws of the two former municipalities would continue to have effect until and unless they are repealed by the new municipality. That's all the bill really does. It's very important to the municipality that this bill be passed by the House this calendar year; otherwise they will be in a situation where a number of their bylaws will cease to have effect, and it could create some considerable confusion in the municipality. So we very much appreciate the committee's attention to this matter. If there are any questions, I'd be quite happy to answer them.

The Acting Chair: Do you have any other comments, Mr Arnott?

Mr Arnott: No, I'm just looking forward to the questions and comments of committee members and would ask that they support the bill.

The Acting Chair: Are there any questions?

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): It's great to see somebody coming forward and referencing as part of their preamble the voluntary amalgamation. I think all amalgamations should be voluntary and in keeping with the will of the people. I

take it the amalgamation has gone fairly well, given that the parties came together in a spirit of wanting to be greater together than they were apart, to chart a new course?

1010

Mr Garrod: It has actually been a very successful amalgamation. I think there are a number of reasons for that. One of them is that there was no loss of the name and no loss of identity. The former village of Erin and the former township of Erin were both quite comfortable being known as the town of Erin. The staffing issues were resolved quite easily. Our firm in fact were the solicitors for both former municipalities, so we ended up as the solicitors for the new municipality. The transition was a fairly easy one and it has worked quite well.

Mr McMeekin: I wouldn't be here today if the former town of Flamborough was still there. I couldn't resist the opportunity to just express my admiration for municipalities that actually come together in a spirit of collegiality and what's best for the citizens to chart their own course. I'll support the bill, of course.

Mrs Boyer: You're asking not to seek to have effect after December 31, 2002, but you want it to go on. There is not another fixed date. You don't want another fixed date.

Mr Garrod: No, we think there is good reason why a number of the bylaws should never have to disappear—for example, bylaws that authorize the acquisition of property and those kinds of things. So we're looking for this. In fact, I understand that this is the way a number of subsequent amalgamation orders were drafted, for that very reason.

Mrs Boyer: No problem.

Mr Gill: I also want to commend the town for seeing the light and agreeing that amalgamation is a good thing and coming forward with it. I know many municipalities don't quite see the light till they have to be coaxed a little bit. So I'm quite happy to support this.

Mr McMeekin: Just in response, when we went through the process of looking at amalgamation in our municipality, the independent commissioners appointed by the government came in to help us with that task and told the people of the town of Flamborough their taxes would go down 1.97%. Since amalgamation, in some parts of my community they're up as much as 28%. We had the wisdom to foresee that. Unlike Erin and the good experience they've had, it's no cookie-cutter here. One size doesn't fit all.

The Acting Chair: Is there anyone in the room who would like to make comment to this Pr bill? Seeing none—

Mr Gill: Chair, is there any amendment or anything?

The Acting Chair: No.

Mr Gill: OK.

The Acting Chair: Are members ready to vote?

In respect of Bill Pr11, An Act respecting the Town of Erin, shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Mr Garrod, I want to thank you very much for your participation this morning. I might add that I've visited the town of Erin. We have a wonderful picture of my daughter Erin underneath the road sign and we treasure that very much. Thank you for being here.

Mr Garrod: Thank you very much, sir.

ELLIOTT ACT, 2002

Consideration of Bill Pr9, An Act respecting The Elliott.

The Vice-Chair (Mr Garfield Dunlop): Ladies and gentlemen, I apologize for coming in late. Thank you, Mr Hoy, for taking over for me for the first little while.

The next bill we're dealing with is Bill Pr9, An Act respecting The Elliott, and the sponsor today is a gentleman by the name of Mr Ted Arnott, the MPP for—it's a very busy day for him.

The applicants are Lois Payne, the solicitor for the corporation of the city of Guelph. Do you have any comments, Mr Arnott?

Mr Arnott: Yes, Mr Chairman. It is a pleasure to have a second bill to be considered by this committee today. I am presenting this bill on behalf of the Honourable Brenda Elliott, who is the MPP for Guelph-Wellington. The Elliott retirement residence is situated within her riding in the city of Guelph. It's a coincidence that she has the same name as the—

The Vice-Chair: There's no conflict here for Mrs Elliott.

Mr Arnott: No, I don't think she owns it. With me to explain the bill and the purpose of the bill, as you said, Mr Chairman, are Lois Payne, the city solicitor for the city of Guelph, and also Sherry Currie, who is a lawyer with Gowling, Lafleur and Henderson, who is acting on behalf of The Elliott. Could I ask you to come forward and explain to the committee the purpose of the bill.

We look forward to any questions you may have.

The Vice-Chair: Thank you very much, Mr Arnott. We do have a report back that I should read into the record from the Commissioner of Estates. It is sent to Mr Claude DesRosiers, our Clerk, and it says,

"Re: Pr9, An Act respecting The Elliott.

"Dear Sir:

"At the request of Chief Justice LeSage, Justice G. Bourke Smith and I (the two resident Superior Court justices in Wellington county) have had an opportunity to review the above-mentioned private member's bill and the background material submitted by you.

"In our capacity as Commissioners of Estate Bills, Justice Smith and I have considered particularly the provisions of section 5(2) and 8 of the bill.

"I wish to advise that we agree that there is no reason why, in our view, the bill, and in particular sections 5(2) and 8 thereof, should not pass into law.

"If you have any questions or further requirements, please do not hesitate to advise."

That's signed by Justice Herold and Justice Smith.

So carry on, please. Do you have some comments?

Ms Sherry Currie: Good morning, Mr Chair and members of the committee. On behalf of Ms Payne and myself I would like to thank you for hearing us this morning with respect to this bill. I am counsel for The Elliott, and just by background, The Elliott is a seniors' residence in the city of Guelph. It currently has in excess of 300 residents and provides a range of levels of care in three buildings on approximately eight acres of land, which is owned by the city of Guelph.

There are some housekeeping-type amendments in the bill, but really the rationale—there are three major things that the bill does.

The first one is it clarifies the relationship between the city of Guelph and The Elliott itself. It specifically answers the question, is The Elliott a local board of the city? The bill provides that, yes, it is a local board. There are, however, some exceptions to that, the major one involving the auditors.

The bill provides that The Elliott will still be the party appointing the auditor and receiving the auditor's report but that information will be passed on to the city of Guelph within a short period of time after it's received.

One of the other issues concerning the relationship between the city of Guelph and the Elliott itself has to do with The Elliott's powers to borrow money, to create mortgages, bonds, debentures and that type of thing. Under the existing legislation the city's consent is required for all of those things. Under the proposed bill it will only be with respect to the borrowing power that the city's consent would be required.

1020

On the issue of the local board status of The Elliott, there is one proposed amendment that has come out of our consultations with the Ministry of Municipal Affairs and Housing. The bill, as it presently reads in clause 5(2)(b), would give The Elliott investment powers pursuant to provisions of the Trustee Act. In discussions with the ministry and between Ms Payne and myself, it has been agreed that it would be appropriate to remove that section. The Elliott being a local board would then, in our belief, be governed by the normal Municipal Act provisions concerning investments. That is acceptable to The Elliott, and my understanding is, it's acceptable to the city of Guelph as well. That's the first major rationale behind the bill.

The second purpose of it is to do some things with respect to the composition of the board of trustees of The Elliott itself. The first thing it would do would be to allow up to one third of the members of the board to be non-residents of the city of Guelph. The Elliott serves residents of the city of Guelph and surrounding areas. It's the intention to broaden the base of membership on the

board by allowing at least one third to be from surrounding areas.

The other thing it does with respect to the composition of the board is it allows or incorporates a process whereby a nominating committee of the board of trustees can have some input into the appointment process. Appointments would still be done by the city of Guelph, but there would be this recommendation process which would be incorporated.

The final major thing the bill does is it refers to a lease of the lands which is going to be executed between the city and The Elliott. The Elliott's buildings are currently situated on city-owned lands, but this will formalize the relationship between the two parties.

Those, in my view, are the major features of the bill. I should perhaps let Ms Payne comment as well and then any questions you have we'd be happy to answer.

The Vice-Chair: Thank you very much. Are there any other interested parties who would like to make any comments before I get to the committee?

Ms Payne, would you like to make comments?

Ms Lois Payne: Simply to say that the city is a co-applicant for this legislation and supports it fully and confirms the summary Ms Currie has presented to you.

The Vice-Chair: OK. Is there anyone here from the ministry who would like to make any comments?

Interjection: I think the ministry is satisfied.

The Vice-Chair: Committee members, any questions? This is going very quickly.

Mr Arnott: It's my intention to move the amendment that has been discussed when we get to it.

The Vice-Chair: Yes, we'll get to that in just a moment here and we go to clause-by-clause.

Are members ready to vote on this? OK.

Shall section 1 carry? It's carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

We have an amendment to section 5.

Mr Arnott: I move that clause 5(2)(b) of the bill be struck out.

The Vice-Chair: You've all heard that motion. Is that agreed? OK.

Shall section 5, as amended, carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you so much for attending here this morning. Thank you, Mr Arnott, for your efforts in these two private members' bills. You're right into private members' bills or Pr bills.

MUNICIPALITY OF CHATHAM-KENT
ACT, 2002

Consideration of Bill Pr12, An Act respecting the Municipality of Chatham-Kent.

The Vice-Chair: The next order of business is Bill Pr12, An Act respecting the Municipality of Chatham-Kent. We're fortunate enough today to have our sponsor, Mr Marcel Beaubien, here, along with the applicant, Brian Knott, the director of legal services for the municipality of Chatham-Kent. Do you have some opening comments, Mr Beaubien?

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Thank you very much, Mr Chair. It's a pleasure for me and an honour to have the opportunity to introduce Bill Pr12, which is An Act respecting the Municipality of Chatham-Kent, 2002. I would also like to point out that my colleague, Mr Hoy, from Chatham-Kent, and I both have the honour and pleasure of representing this particular municipality. To Mr McMeekin, this restructuring process certainly was not on a voluntary basis. It was imposed by the province a few years ago. I'm sure there was a very interesting debate at that time. There continues to be a debate, but from my perspective, it seems to be working quite well.

I have with me Mr Brian Knott, who is the director of legal services and who will be making the presentation. I would also like to point out that I will move an amendment to section 1 of the bill.

The Vice-Chair: Yes, we have that. Thank you very much, and carry on, please.

Mr Brian Knott: Good morning, Mr Chair, and members of the committee. My name is Brian Knott, director of legal services with the municipality of Chatham-Kent.

Similar to the Erin proposal that you had before you earlier this morning, the bill that is being sought is to have an amendment made to the restructuring order which brought into play the incorporation of the municipality of Chatham-Kent under a restructuring order that was effective January 1, 1998. Twenty-two municipalities became the municipality of Chatham-Kent. The order itself provided that the bylaws of the various municipalities would continue into force and effect for a period of five years, ending December 31 of this year.

The task of putting together the consolidation of these bylaws has proven to be a very onerous task considering there were 22 different variations on a theme that we

were dealing with. What we are seeking is that there be an extension to that time period for a further two-year period to allow us to complete the consolidation process. All the bylaws are, in fact, being reviewed and are nearing completion, but we felt we needed more time to allow for that consolidation process to be completed.

If there are any questions, I'd be happy to answer them.

The Vice-Chair: Are there any questions from any other interested parties here today? From the Ministry of Municipal Affairs, anything?

Interjection: It's acceptable, sir.

Mr Pat Hoy (Chatham-Kent Essex): Would you happen to know how many bylaws are in question here, or would you even hazard a guess?

Mr Knott: The approximate number of bylaws that we had to start dealing with would be in the range of 70 to 100 bylaws, and each municipality has variations on those bylaws. Some of them are single-purpose types of bylaws; others are more generalized.

What we're trying to do is to provide some commonality throughout our community in terms of having one bylaw apply to all the communities and all the citizens.

The Vice-Chair: Other questions from any other committee members. OK, are the members ready to vote on this then?

I understand we have an amendment for section 1.

Mr Beaubien: That's correct. I move that the definition of "restructuring order" in section 1 of the bill be amended by striking out "The Corporation of Chatham-Kent" and substituting "The Corporation of the Municipality of Chatham-Kent."

The Vice-Chair: You've all heard that amendment. Are there any questions? All in favour? That's carried.

Shall section 1, as amended, carry? Carried.

Shall sections 2 to 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you very much, everyone. It has been a great morning.

The committee adjourned at 1030.

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Wednesday 11 December 2002

Journal des débats (Hansard)

Mercredi 11 décembre 2002

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé



Chair: Rosario Marchese
Clerk: Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS

Wednesday 11 December 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Mercredi 11 décembre 2002

*The committee met at 1005 in committee room 1.*TORONTO ATMOSPHERIC FUND ACT,
2002

Consideration of Bill Pr15, An Act respecting the Toronto Atmospheric Fund.

The Vice-Chair (Mr Garfield Dunlop): I call the meeting to order.

The first item of business is Pr15, An Act respecting the Toronto Atmospheric Fund. I understand Mr Gilchrist is not here. Is the applicant, Clifford Goldfarb, here?

Good day. Could you introduce yourself, please?

Ms Lorraine Searles-Kelly: My name is Lorraine Searles-Kelly and I'm a solicitor with the city of Toronto. I am here to represent the city of Toronto as well as Mr Goldfarb, the Toronto Atmospheric Fund, and the Toronto Atmospheric Fund Foundation.

We fully intended to proceed today, to go forward with this application. Late yesterday afternoon it was communicated to me that there had been a request to amend the bill, which we were unaware of. Mr Gilchrist has communicated to Councillor Socknacki, who was on the TAF board as well as being a councillor of the city of Toronto, that it would be best to have this matter deferred. So I'm here to ask that the committee defer the consideration of this bill at this time and bring it forward in the spring.

The Vice-Chair: OK. Do we have agreement on that? That's fine. We'll defer it to the spring.

REENA FOUNDATION ACT, 2002

Consideration of Bill Pr17, An Act respecting the Reena Foundation.

The Vice-Chair: The next item on our agenda is Bill Pr17, An Act respecting the Reena Foundation. The sponsor is Mr Arnott, and I was wondering if Mr Longo is available.

Mr Ted Arnott (Waterloo-Wellington): Have I been recognized, Mr Chairman?

The Vice-Chair: Yes, Mr Arnott. I've just recognized that you are the sponsor, and I was wondering if Mr Longo is available as well.

Mr Arnott: I appreciate your interest in this issue, Mr Chairman, and I want to express thanks to the committee members for hearing the submission of the Reena Foundation as manifested by Bill Pr17.

With me here today is Stephen Longo, who is counsel for the Reena Foundation, and also Carolyn Pinto of The Jeffrey Group, who is advocating as well on this issue. I would turn it over to Mr Longo, who will make a brief presentation as to why we're bringing this bill forward today.

The Vice-Chair: Yes, please make a few comments, Mr Longo.

Mr Stephen Longo: Thank you very much, Mr Chair, Mr Arnott and members of the committee. I'd like to start off by just expressing my sincere thanks and also the sincere thanks of my client, the Reena Foundation, for the accommodation that we have had in terms of getting this matter to the committee so expeditiously, realizing that we had to jump through a few hoops. I'd also like to thank the Office of Legislative Counsel for all their assistance that we've had in this matter. We've really appreciated it.

I just have a few brief remarks about my client, the Reena Foundation, and the intent or reason for the private bill that we are seeking. Then, of course, I'm open to any questions, Mr Chair.

The Reena Foundation was formed in 1973 by parents with children with developmental disabilities. The goal of Reena is to create a safe environment for persons who have developmental disabilities, an environment that allows them to live and work with dignity, independence, confidence and choice.

1010

Reena provides programs to more than 1,000 clients and their families. It has attracted widespread recognition at home and abroad for its innovative programming and the services it offers to its members and to the community at large. Reena is also a non-profit philanthropic corporation and a registered charity.

The subject property at 927 Clark Avenue West in Vaughan houses the Toby and Henry Battle Developmental Centre. The centre is a fully accessible building that offers day and evening programs. The centre features a wellness and health centre, a gymnasium, a creative arts workshop, a computer centre, a greenhouse and library,

and it offers various activities that are tailored to the individual skills and interests of its members.

Reena had approached the owner of the subject property with the intention of buying the property. The owner, however, was not prepared to sell the parcel because of certain tax issues. Ultimately, an arrangement was reached where Reena would enter into a long-term lease of the land, build its own building—which is the Battle centre—and then obtain an option to acquire the land after 10 years.

The long-term lease was entered into May 1, 1995, and expires May 1, 2005. The centre opened in March 1997. Reena fully intends to exercise its option to purchase the land in May 2005, which is coming up in less than three years' time now.

I should also point out that Reena began receiving funding from Ontario's Ministry of Community, Family and Children's Services—which was once known as Community and Social Services—in 1977, and they continue to receive funding from that ministry to this day. I think it's worth noting that about 90% of Reena's funding does come from the provincial government.

To get to the reason for the private bill, the property in question was returned by MPAC, the Municipal Property Assessment Corporation, as being exempt from taxation commencing with the 1998 taxation year. Reena has been working under the assumption that the property, land and building were exempt from taxation since that time.

However, in June 2001, MPAC issued what is known as a notice of omitted assessment, retroactively changing the status of the property from exempt to taxable, and doing this going back to January 1, 1999, which is as far back as the assessment legislation—specifically the Assessment Act—allows MPAC to go.

The impact of these notices of omitted assessment has been incredibly difficult for Reena, because what it has done is it has put upon them a tax load in the nature of \$200,000 retroactive to January 1, 1999, which they had not expected to bear. If not addressed, this would have a catastrophic impact on Reena's ability to function and its ability to offer the services and programming upon which so many individuals, families and community members rely.

Without getting into the minutiae of the assessment legislation, Reena would be exempt if the property in question were owned, used and occupied by Reena. The problem is that because of the lease, Reena doesn't own the property in question. They do, as I have indicated, fully intend to own the property when they exercise their purchase option in 2005, but in the interim there is the need for this private legislation to address the unfortunate, and I would also submit unique, situation that Reena finds itself in.

I think, subject to questions from the committee, those are my initial comments. I should also point out that Ms Sandy Keshen, who is the executive director of Reena, is here today sitting in the back. I'm open for questions.

The Vice-Chair: Thank you very much, Mr Longo. Before we go into questions, I want to ask legislative

counsel if they have some comments; there are a few things they'd like to put on the record.

Ms Laura Hopkins: Under the standing orders, one of my jobs is to let the committee know if a private bill contains unusual provisions or is unusual in some respect. I'd like to tell you about the four ways in which this private bill is unusual. I'll tell you the four ways and then I'll give you a little bit of background information.

This private bill is unusual in that it's here at all as a tax cancellation private bill; the second way that it's unusual is that the charity doesn't own the property that's the subject of the tax cancellation; the third way in which it's unusual is the mechanism by which taxes are cancelled; and the fourth way is that it's unusual in the extent to which back taxes are cancelled. Let me tell you a little bit about the background now.

Until 1998, tax cancellation private bills were routinely considered by committee, but the Municipal Act was changed in 1997 to allow municipalities, by bylaw, to rebate taxes to charities. Starting in 1998, this committee hasn't considered any tax cancellation private bills. That's the way in which this one is unusual to that extent.

When we look at the tax cancellation bills that this committee considered before 1998, the second unusual feature is that the charity doesn't own the property in respect to which it's seeking the tax cancellation. This isn't unprecedented. The committee considered another bill like this before 1998, but this is just a little unusual and I thought you would like to know that.

The third way in which the bill is unusual is a legal way. Before 1998, it was conventional for private bills to authorize the municipality in which the property was located to pass a bylaw providing for tax cancellation. This bill, instead, cancels the taxes directly. It gives the tax exemption directly.

The fourth way in which this bill is unusual has to do with the cancellation of back taxes. Before 1998, back taxes were cancelled starting from the year in which the application for the private bill was made. In this case, the applicant seeks to cancel back taxes back to 1999.

Those are the four ways in which this bill is unusual. I believe that the applicant has already described the reasons for these unusual features of the bill.

The Vice-Chair: Thank you very much. I believe now there is an amendment going around. There are some questions coming up here as well, but I'll ask the parliamentary assistant for his comments first of all.

Mr Morley Kells (Etobicoke-Lakeshore): I just wanted, if I may, to ask the legislative counsel a question. I've heard what you've said and I've heard what the delegation said. I guess the main point is that there's no other obstruction to us passing the bill. The information is fine. We're well in order to proceed. My understanding is that there is an amendment that's going to be brought forward and the ministry has no objection to the bill whatsoever. I just want to get on the record, if I could.

The Vice-Chair: Thank you very much, Mr Kells.

Mr McMeekin, you have a question?

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): A question, maybe several, and some comments as well. I think there's a fifth way that this is unusual and that is that it has appeared very late on the agenda. I for one haven't had a chance to check in with some other agencies that provide a similar service. Before I came to work here, I worked with a group called Choices, which offered residential assistance to developmentally disabled adults, so my heart is certainly there.

Notwithstanding, I'm a former mayor of a municipality that had to look at laws. I was very delighted when we embraced, in the Municipal Act, the option of municipalities in fact waiving taxes. That's a power that we've given to them. So I guess my first obvious question is, have you had discussions with your municipality and can they comment? I noticed, just in passing, the impact indicates that they will rigorously oppose any change here. What does your municipality say?

1020

Mr Longo: We have had consultation with the city of Vaughan, the municipality. In fact, the city has passed a resolution of support for this private bill. The council of the city did pass a resolution of support.

Mr McMeekin: Is that part of our package today?

Mr Longo: I don't know. We had provided it to Mr Koch as part of the compendium of background information, so I believe it is there.

Mr McMeekin: Can you confirm that is the case?

Clerk of the Committee (Mr Katch Koch): It's in the package.

Mr McMeekin: I've been going through material but I've been getting some on e-mail and some—which is fine.

Mr Longo: It should be tab J, I believe, if I'm not mistaken.

Interjection.

Mr McMeekin: Well, I try to, I really do. I used to teach speed reading at the college, so it helps to be able to speed-read things too. With a computer, it's a little easier.

Mr Kells: We'll have to take his word for it, anyway.

Mr McMeekin: With all due respect, I do. My tendency is to be pretty naïve—and it's no reflection on you—and take most people's word for it, but I can tell you, I've taken people's word for things before and have got burned pretty badly as a result. So I'm pleased that it's been confirmed. The fact that Mr Arnott is here making a presentation also strengthens my inclination to be supportive.

The municipality has indicated they are onside with this, notwithstanding impacts—an indication that they will rigorously resist any attempt? OK.

I guess the other issue—and I think there's probably enough here to sprinkle holy water on it from my perspective, but I want to just add one other thing. It's a case-to-cost kind of deal for me. I know there are a number of similar circumstances throughout the province. I can think of at least five in my own riding. One of the first things I'm going to do when I leave here is place

a call to see if they're paying property taxes. I suspect they are.

If we see the benefit of passing this bill and providing this kind of relief in this circumstance, and we want to extend the right to this group, I would think it would be a right that we'd want to seriously consider extending to potentially all charities in this group, which may involve an amendment to the Municipal Act to include, in addition to commercial and industrial properties, also residential properties.

I think the other issue that our legislative counsel has brought to our attention is the issue of land ownership and who actually gets the tax relief. I think that's another issue we might want to look at.

I'll support this, given the registered support of the municipality, but in fairness, I want to suggest this may be providing us with an opportunity to take an acknowledged good that we're hopefully about to do and, in acknowledging it, also ensure that others who are in a similar situation would have equal access to the same right. Does that make sense?

The Vice-Chair: It sure does. Mr Beaubien, you had a question?

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Yes. As you pointed out, the municipality of Vaughan is quite supportive of the application. However, what about the region? Are they supportive also of writing off the taxes?

Mr Longo: We have not made inquiries of the region directly, so I can't answer that question.

Mr Beaubien: How do you see this coming down the pipe? There is a levy on the taxes from the region. If the region is not willing to write off the taxes, how does that impact the foundation?

Mr Longo: First of all, the region would be aware of what the council of the city of Vaughan has done. I guess our thought was, this is primarily a municipal property tax issue. We saw relief coming through by means of a private bill and the cancellation.

Mr Beaubien: But there's another tier of charge also on your tax bill.

Mr Longo: Yes, I'm aware of that, but I would have thought that the relief we're seeking would have been covered off by the private bill. In terms of the cancellation—

Mr Kells: I assume our level of government would take precedence over the region.

Mr Longo: Right. I would have thought that, but I would have thought that because the bill cancels all property taxes—that's the wording I've seen—retroactive to January 1, 1999, and then going forward from January 1, 2003, prospectively exempts from taxation, the matter is addressed that way.

Mr Beaubien: Could I ask legislative counsel, under section 442 of the Municipal Act, with municipalities being able to write off taxes, does it give them the power to write them off on a retroactive basis?

Ms Hopkins: I didn't bring my copy of the Municipal Act with me. To the best of my recollection, it doesn't allow for a retroactive tax cancellation.

Mr Beaubien: Consequently, you would definitely have to have approval from both the municipality and the region, I think.

Ms Hopkins: In order to answer that question, I'd be guessing.

The Vice-Chair: Mr Longo, do you have an answer to that?

Mr Longo: Well, we had looked at the Municipal Act, at section 442, and I wouldn't have thought—unfortunately, I didn't bring it with me, because I didn't know it would arise today, but we didn't think that section would apply.

Building on the comment that was made earlier by legislative counsel about the normal route of rebates to charities, one reason why that route doesn't help us here is that we don't meet the eligibility requirement of property class currently. I think there are some changes coming down the pipeline but they're not law yet, but currently—

Ms Hopkins: Yes, they are.

Mr Longo: Oh, they are, but you have to be in a class for the rebate.

The other thing is that the rebate is at the option of the municipality and it's also not necessarily a 100% rebate and it can't be retroactive. So it doesn't address any of the concerns that we have before the committee.

But I must say that certainly our understanding of how the bill has been drafted is that it cancels the taxes, period, full stop. So I'm not sure that section 442 would apply. I'd have to go back and take a look again since I don't have the benefit of having it in front of me. But I remember that we did scan the Municipal Act and the Assessment Act when we were looking at all the options open to us.

Mr Beaubien: I haven't got any problem with your application, but I'm concerned with the retroactivity aspect of the rebate. That's the only concern that I have, whether we're opening a can of worms there.

Mr Longo: Right. Mr Beaubien, that's a well-founded concern and it's probably the biggest single concern we've had to address. How I would respond to that simply is by saying that we are seeking retroactive relief but the problem has been created retroactively in that MPAC issued a notice of assessment retroactive two and a half years, which they are entitled to do under the Assessment Act. But it doesn't happen that often, especially in a situation where—and this is also, I should point out, in the members' packages—MPAC had previously assured our client that in fact they were exempt. Obviously everybody's entitled to change their mind, but our client had proceeded under certain assumptions from MPAC. Then they got this whopping two-and-a-half-year retroactive tax bill; that's why we're seeking the retroactive relief.

Mr Gilles Bisson (Timmins-James Bay): First of all, I just want to indicate that I want to support this bill. I

think anything we can do to help charitable organizations to keep afloat is a great thing. Retroactivity—whoa, that's interesting. I have just a couple of questions.

Parliamentary Assistant, there's no ministry staff here?

Mr Kells: Yes, there is.

Mr Bisson: OK, I have a couple of questions. The first question is, have we ever done anything like this that's retroactive when it comes to municipal taxation?

Mr Kells: Not to my knowledge.

Mr Bisson: I'll leave it at that.

Mr Kells: Because of how recent the imposition of that—

Mr Bisson: No, you don't have to convince me. I'm convinced. I just wanted to know.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): He's on side. Don't bug him.

Mr Bisson: Yeah. My other question is, I guess, to leg counsel or the parliamentary assistant. I don't ever recall a private bill coming and doing this as far as exemption of taxation. Have we ever done—

Ms Hopkins: Going way back in time, it used to be the case that private bills cancelled taxes directly, or created a tax exemption directly. But to the best of my knowledge, in the past 15 years it has been the practice of the assembly to give the municipality the power to do it, rather than to do it directly.

1030

Mr Bisson: Chair, I ask for the question to be put.

The Vice-Chair: What question?

Mr Bisson: I want to vote on this. Let's go. Let's help these people.

The Vice-Chair: Just a second, we've got other questions here.

Mr Bisson: I move that the question now be put.

The Vice-Chair: Mr Hoy?

Mr Bisson: No, you have to deal with me, Chair.

Mr Kells: They're trying to get an amendment in.

Mr Bisson: No, Mr Chair, I ask that the question be put.

The Vice-Chair: Do we have consent in the room to put the question? No, we don't. We've got one more question.

Mr Arnott: Mr Chairman, I have an amendment that's going to be—

Mr Bisson: Yes, we're going to deal with your amendment.

The Vice-Chair: But we have another question before the amendment. Mr Hoy?

Mr Bisson: Chair, I move that the question now be put, that we vote. Either we put the question or we don't. I move that the question now be put.

The Vice-Chair: We never had consent for you to move ahead with that.

Mr Bisson: You don't need to have consent for a motion. I'm putting a motion. If nobody wants a motion, they can vote against it.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): We've disallowed you.

Mr Bisson: I'm trying to help you guys and you don't realize it.

Mr Hoy: My question, sir, is that I would assume these taxes have been paid in full up till now?

Mr Longo: Yes, they have.

Mr Pat Hoy (Chatham-Kent Essex): If this bill were to pass, your lease agreement would remain exactly the same as it's written today?

Mr Longo: I'm sorry, sir, I couldn't quite hear your question.

Mr Hoy: If this bill were to pass today, would the lease arrangement that you currently have remain exactly the same?

Mr Longo: Yes, it would. The lease is in place until 2005, when the purchase option can be exercised.

The Vice-Chair: Mr McMeekin, did you not have a brief question?

Mr McMeekin: Yes. I just want to reiterate, if I can for a minute, and I want to go on the record. I don't mind breaking the law when it's done in a setting where lawmakers come together to—there is clearly precedence. This doesn't qualify under the act and there's a retroactivity, so it's clearly an abridgement of the law. I don't mind going there and supporting that, but I will only do so if I can have some undertaking from this committee that we will pursue the next logical step. That's our job here as lawmakers, to do the case-to-cost-off. We will then move to ensure there is a change to the act so that other equally worthy charities that fall under the same circumstances will reap the same potential benefits. If I don't have that assurance, then I'm afraid I'd have to vote against it. I don't want to do that, so—

The Vice-Chair: I'm not sure we have the authority to give that assurance, Mr McMeekin. That's my problem right now.

Mr Kells: If I could make a comment, I hear what the honourable member has just said. There's another factor that might make you feel somewhat more relaxed about this, and that is that the Minister of Finance of the day has the ability to direct the assessment court to do something in relation to levying taxes.

Mr McMeekin: I appreciate that, but that's normally not the way we intervene with partner municipalities. Normally we try to clarify it so the rules are the same for everybody. As I say, my heart is there and I want to support it, but I want to support everybody who's got a similar circumstance. Enough said.

The Vice-Chair: Mr Bisson?

Mr Bisson: Now that I properly have the floor, I move that the question now be put.

The Vice-Chair: OK. Mr Arnott?

Mr Bisson: Can we deal with the amendment first? We can deal with his amendment?

The Vice-Chair: We'll deal with the amendment first, yes.

Mr Arnott: I move that the bill be amended by adding the following section:

"Repeal

"4.1 This act is repealed on May 1, 2008."

The Vice-Chair: You've heard that amendment. All in favour of that? A question on the amendment? Mr Hoy.

Mr Hoy: I'd appreciate an explanation of why you want to repeal this bill. You've just stated that your lease goes to 2005, at which time you will put an option to buy into place, so you say. I will take you at your word for that. Now you say you want to repeal it. You're looking for a power that you want repealed three years after you buy.

Mr Longo: This amendment has come from municipal affairs staff. They have requested it and I think they should probably speak as to why they want it. But what I will say in terms of the repeal date of May 1, 2008, is that when we were approached and asked for a sunset clause, if you will, we expressed our concerns but said if there had to be one, we wanted 2008, because the purchase option is a three-year window. Our client fully intends to execute in 2005, but if they're going to insist on a sunset clause, these things take time to be negotiated and get finalized. We'd rather have the leeway of having the full three-year window. That's why we suggested that date if they wanted a sunset clause; the full three-year window on the purchase option. But in terms of the source of that amendment, it comes from municipal affairs and maybe they should address as to why they want that.

Mr Hoy: You have the option to buy; you're not compelled to buy.

Mr Longo: No, we're not compelled to buy it, but my client is certainly fully intending to buy it, given the situation they've had with the owner. The whole reason this arrangement was so cumbersome in the first place is that they fully intend to exercise their purchase option. The other thing of course is that they'll lose their exempt status in any event if they don't buy it. That's the issue.

The Vice-Chair: I'm going to start with section 1 and then we'll get to the vote on the amendment.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 4.1, as amended, carry? Carried.

Shall section 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Mr Arnott: Mr Chairman, I understand it's routine at this committee, if there's a charitable organization coming forward, that we give consideration to waiving the normal fees and printing costs. So I would move a motion that the fees and printing costs in this instance be waived for Bill Pr17.

Mr Bisson: How much are the fees they would have to pay?

Clerk of the Committee: The fee for the application is \$150 and the printing costs for a bill of this size would be roughly anywhere between \$250 and \$300.

Mr Bisson: I want to second the motion.

The Vice-Chair: Is there any debate on this motion?

Mr Hoy: I'd like to make a comment. We've had requests from people who have travelled greater distances than just from Vaughan to this location, particularly those from the north, who have asked for the consideration to waive fees. They have taken air flights—and honourable members know how expensive they are—they have travelled great distances and they have been denied the fee waiver. I know they've gone to great expense to come to Toronto to have their private bills looked at. I think we should pause and think a bit about this, in light of setting

another precedent that we waive fees in a rather indiscriminate way. We've had people come here from the far north at a great expense and we've charged them the fee.

Mr Bisson: Just for the record, I've had people travel from great distances to the committee and they were paid.

Mr Kells: If they request it, then we have to make a decision on each occasion.

The Vice-Chair: Any further comments on this? We've got a motion to waive the fees here today and we've got a seconder. All in favour? Shall the motion carry? Carried.

The committee adjourned at 1039.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr Katch Koch

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Official Report of Debates (Hansard)

Wednesday 14 May 2003

Journal des débats (Hansard)

Mercredi 14 mai 2003

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 14 May 2003

Mercredi 14 mai 2003

The committee met at 1004 in committee room 1.

DRAFT REPORT ON 2001 REGULATIONS

The Chair (Mr Rosario Marchese): I call the meeting to order. Just to remind those of you who are here to deal with the bill, Mr Jackson is on his way. He is a few minutes late, so I thought, rather than waiting, we might deal with the report that we have as the second item of business. Why don't we deal with that, if that's OK with everyone. OK.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): In case Mr Jackson doesn't arrive, this venerable institution is in my riding, and I would be quite prepared to speak to it.

The Chair: I was quite prepared to move without Mr Jackson, but because he wants very much to be the sponsor we thought we'd wait a couple of minutes. Otherwise, if he's very late, we'll do that.

We've got the draft report on regulations, 2001, prepared for the standing committee on regulations and private bills by Andrew McNaught, researcher, who is here.

Andrew, would you like to give a little introduction to the report before we see whether there's some discussion or debate?

Mr Andrew McNaught: Good morning. I'm Andrew McNaught. I'm with the Research and Information Services branch of the legislative library.

You should have in front of you a copy of standing order 106(h), which the clerk is handing out right now, as well as the committee's draft report on regulations for 2001.

I'll just give you a brief reminder of the committee's role with respect to regulations. The committee's mandate is set out in standing order 106(h). It requires the committee to review the regulations made under Ontario statutes each year and that this review be conducted in accordance with the nine guidelines set out in the standing orders.

For example, you'll see that guideline number (ii) requires that, "Regulations should be in strict accord with the statute conferring of power...." In plain terms, that means there should be authority in the statute to make the regulation.

The current review procedure is as follows. The research branch conducts the initial review of regulations

and identifies potential violations of the guidelines set out in the standing order. We then write letters to the legal branches of the ministries responsible for those regulations. If a ministry's response suggests there has been a possible violation of the guidelines, we include a discussion of that regulation in a draft report to the committee.

That's where we are today. You have in front of you a draft report concerning regulations made in 2001. You see that the report is divided into three parts. The introduction, on page 1, briefly outlines the committee's mandate. The second part, on pages 1 and 2, contains some statistics, including a comparison of the number of regulations filed between 1991 and 2001. The third part of the report begins at the bottom of page 2, under the heading "Regulations Reported," and that section discusses regulations that contain potential violations of the committee's guidelines.

You'll see that in this report we have commented on eight regulations. At the top of page 3, we've reported a regulation made under the Ministry of Correctional Services Act. That regulation concerns requests for a temporary absence from a provincial correctional facility. The regulation provides that inmates must submit a request for a temporary absence to the superintendent of the institution and that, upon receiving the request, the superintendent has three options: the superintendent may authorize the request, deny the request or defer the decision. Our concern was that the meaning of the word "defer" in this context was unclear, since there's no reference to a specific time requirement to make a final decision. Accordingly we raised this as a potential violation of committee guideline number (iii), which provides that a regulation must "be expressed in precise and unambiguous language."

The ministry's response was that the authority to defer a decision is implied in the authority to grant or deny a request. The ministry said it would be redrafting the regulation so that there was no reference to the option of deferring a decision. In fact, that's what they did earlier this year. The regulation was amended so that there is now no reference to deferring a decision to grant a temporary release.

1010

In the next section, at the bottom of page 3, we have reported seven regulations made under the Planning Act as potentially in violation of the committee's guideline

on retrospectivity. Unless a regulation states otherwise, it takes effect on the day it is filed with the Registrar of Regulations. In this case, the regulations were filed on March 1, 2001, but each regulation states that it is to come into force on February 19, 2001. As a result, each regulation was in effect retroactive by 10 days.

The committee's fourth guideline provides that regulations should not have retrospective effect unless there is specific authority in the statute under which the regulation is made. As the Planning Act does not authorize retroactive regulations, we asked the Ministry of Municipal Affairs and Housing for their explanation. The ministry's response, you'll see, is that due to a clerical error, regulations were filed 10 days later than scheduled. The ministry says it will be implementing administrative procedures to ensure that filing requirements are met in the future.

That's the report. As I say, it's a draft report and can be changed as the committee wishes; otherwise it can be adopted and reported to the House. If there are any questions, I will be happy to answer them.

The Chair: Thank you, Andrew. Questions or comments on the report?

Mr Pat Hoy (Chatham-Kent Essex): I just want to make a comment that it would appear that under the two responses from ministries as to your concerns—the committee's concerns—about retrospectivity and language, they appear to be making the proper corrections. I would ask: have we had a regulation come forward since that time that did not adhere to the stated goal of correcting, specifically in retrospectivity aspects?

Mr McNaught: This covers 2001, and we're currently reviewing the 2002 regulations. We are almost finished those, and there may well be.

Mr Hoy: But we haven't seen one that is retroactive since they said they would correct it?

Mr McNaught: No, we haven't.

Mr Hoy: So perhaps they will do exactly that.

Mr Gilles Bisson (Timmins-James Bay): To get back to something we talked about last fall, part of the difficulty we have as legislators is that as we get bills into the House at second reading we're void of being able to see any of the regulations. As we know, many of the details of how a bill will actually work are left to the regulations. Far too often we find ourselves in a position, not only at second reading but at third reading, of being without regulations and being asked to vote on a bill that may confer on the minister a fairly large ability to do things that in our view may not be wise to be put in the bill.

I come to what I raised last fall, which is that maybe one of the things we want to add in this report is that the committee would be interested, where possible, in being able to have an opportunity to vet some of those regulations. They might not be able to do it at second reading, because I understand that sometimes the regulations aren't drafted until after we've done the actual debate; I understand the technical problems there. But I think it probably would not be a bad use of time for the members of the committee to spend some time vetting some of

those regulations prior to their being adopted, so there is some consistency between what the debate was in the House and what the government intended and purported to be the intention of the bill, and what is finally put in the regulations. I'm just interested to see what the government has to say about that.

Mr Morley Kells (Etobicoke-Lakeshore): The honourable member makes a good point, though I'd like to point out a couple of things that have happened in the past.

In support of your point, back when the Liberals were the government, they passed a rent review act and I had the opportunity to serve on that board—there was an NDP rep, a Conservative rep and 25 Liberals. The regulations were written well after the bill, and the regs couldn't implement the bill. The bill was badly bungled at its passing; there were about 54 amendments thrown into the bill in the House at the last minute. The chore of writing the regs fell to the staff, and they were incomprehensible. The regs could not implement the bill. I thought it was the most barbaric experience I had ever had as a politician or working on anything involving government legislation. So I sympathize with you.

But quite often it is impossible to write the regulations. Right now I know, for example, there are some bills we have passed that still do not have regs, and we've had to go outside to get the regs written because we don't have the legal staff inside to do the chore. But I think your point, from the committee's perspective, is a good one. I don't know how we resolve it as a government, or how any government would resolve it, but it certainly is a real problem for legislators when the bill tells you what the government policy is but how it's going to be implemented is hung out to dry for a long period of time. It's hard to even comment on it when the bill is going through the House.

Mr Bisson: I'd like to make a suggestion. I think we've all seen those types of things happen at times, no matter who the government is. I think what happens often is that the government may have good intentions in trying to bring a law forward, but in their haste to do so, either because it's something they truly believe in or there's some urgency to the matter to pass it, politically or practically, we end up in that kind of situation. I can think of examples in my years here where I've seen that basically from all stripes of government.

My suggestion is that we can do one of two things. One of the things we can report back to the House—because this committee has the ability to order its own business; as I understand it, we don't need the authority of the House to decide what business we deal with, provided it falls within the purview of what this committee is charged to do—is that we agree at the beginning of a session such as this that the committee would ask the clerks to inform the committee by a short report—we don't need a thesis on what regs are being built—a short synopsis of what regs are currently being looked at by way of the research department and which ones the committee might be interested in, in order to take a look at them here. That would be one way to do it.

The other way to do it would be that each of the parties can order up any of those regs, those reported to us, in much the same way that we do at the estimates committee. I don't believe we want to order up reg after reg, but basically, in rotation, each party can select one particular bill and take a look at the regs. We can limit ourselves by way of time, how long we want to spend on it, because I wouldn't want to get caught up, as you wouldn't want to get caught up, in looking at the minutiae of regs on a bill, but I think there's some good work this committee could do in being helpful to the drafters and to what the intent of the legislator is.

I would suggest we do one of two things: either, by agreement of the committee, we decide, based on the recommendations of the clerk and research, which of the regs we should spend some time on, and/or, if we want to go the other way, we can say each party can select in the session a reg that we may want to look at, and the committee can spend a day, or whatever we decide, looking at each of those particular bills.

The Chair: Any response to that suggestion? Mr Kells?

Mr Kells: I really don't have any objection to it, but it's still after the fact.

Mr Bisson: That is the problem, yes.

Mr Kells: I don't know how we get around that.

Mr Bisson: You need an order of the House to get around that one.

Mr Kells: Yes. And it's impossible, the way things move, to bring the regs into the House at any time. It just wouldn't work, obviously.

Mr Bisson: No, unless we change the rules of the House.

Mr Kells: Right. Well, that's an argument for another day. From my point of view, I think it would be worthwhile to go along with the honourable member's suggestion. It can't do any harm. It doesn't matter to me which option you're talking about.

Mr Bisson: I think it would be helpful if we—

The Chair: The suggestion you're agreeing to is—

Mr Kells: I'm saying that either one of his options has merit.

The Chair: We understand that, but we should do something that's workable and something that's clear.

Mr Bisson: Well, I'd like to hear from the people who have the expertise of having to read those pesky little regs.

Mr McNaught: I'm not entirely clear what you're proposing. If you're suggesting that regs be made available to the committee before they are published, that's not in the standing order. You would have to get an amendment to the standing order.

Mr Kells: With all due respect, and the honourable member will speak for himself, what he's suggesting is that, as part of our responsibilities here, each of the parties could pick a specific reg they want to look at, or your other option. In other words, this would be after the fact. We're not trying to change the standing orders.

1020

Mr Bisson: No. We need to change the rules of the House to be able to do it the other way. I wouldn't want to spend an inordinate amount of time on it, but I think it's good for us as legislators as a sort of check. We had the debate in the House at second reading, and we had the vote; we had the debate in the House at third reading, and we had the vote. We know what the intention of the law was. We could go back and take a look at the regs as a measure of how close those regs are to what we wanted as legislators in the House, so that at the end of that process we then have some target to go toward in saying, "Well, maybe we do need to change the rules of the House, because this committee finds that when we do pass second and third reading bills, the regs really don't reflect what we thought they were going to reflect. So therefore we've got to change the rules."

The Chair: Because there is some agreement between your suggestion and the government member saying it's something we could look at, should we have it in sub-committee perhaps, to work out what is possible and/or feasible that is agreeable to the members?

Mr Bisson: That would be fine. I don't know if we even need to go there. We're not asking to get the regs before they're printed; it's obviously going to be after the fact. So all I really want from the research staff is for them to basically, as they did today, give us a list of what bills the regs were drafted to. Each of the parties then can select one, and then this committee can spend some time on each of those bills, taking a look at the regs as this committee meets.

We don't normally meet for a long time—30 minutes for a group such as we're about to meet. The rest of the morning we can say, "OK, we're going to start with the Liberals and we're going to look at their bill, and we'll take a look at those regs and what they mean," move in rotation, and away we go.

Mr Kells: I don't have any concern with that. As the honourable member says, it doesn't matter who the government is; the problem will be there.

Mr Bisson: It's not a partisan issue.

Mr Kells: It's an honest way to try and—

Mr Bisson: —try to clean up the process a bit.

The Chair: OK, so the idea is, after the fact, after regulations are done, we would have a sense of what regulations are before us, the committee would choose one regulation—

Mr Bisson: One bill. We would look at the bill, because there may be more than one regulation in the bill, obviously.

What we need from research—as you did this morning: you presented us with your report, which we'll order back to the House; there are a number of ministries that came before regs, and then you listed in appendix D the actual bills. So what we need to know from you is not so much which ones, because we know that; we need to know which ones, in your mind, the committee probably should spend some time on because there was some difficulty in the drafting. That's all I want.

The Chair: Is that OK, Andrew? Andrew is nodding approval. OK, so that's workable.

Mr Bisson: We're going to give you more work.

One last comment: one of the reasons we don't have enough staff to be able to do the regs, quite frankly, is the reduction in staff that we've had here at the Legislature when it comes to the work they do.

Mr Kells: I thought it was because we passed so many good pieces of legislation.

Mr Bisson: Well, the House hasn't sat in 104 days, and we're certainly not debating anything right now.

The Chair: I am convinced a new government, whichever that is, will fix that problem.

Any other comments and/or suggestions to the report?

OK. Andrew, thank you for your report. We'll move on to adoption of the report. Would somebody move that? Mr Kells.

Mr Kells: I move we adopt it.

The Chair: Mr Kells moves adoption. All in favour? Any opposed? That carries.

Mr Kells moved that the draft report be adopted and reported to the House. All in favour again? OK. No disagreement there.

REDEEMER UNIVERSITY COLLEGE ACT, 2003

Consideration of Bill Pr14, An Act respecting Redeemer University College.

The Chair: Moving on to Bill Pr14. Mr Jackson is the sponsor. Would you like to come forward? Introduce the applicants, and then we'll come to you if you have a comment with respect to the bill.

Mr Cameron Jackson (Burlington): To my immediate right is Dr Justin Cooper, the president of Redeemer University College. Next to him is Dr Jacob Ellens, vice-president, academics. We have Dr John Vriend, director of teacher education, and Mr Bert Bakker, QC, legal counsel. I will provide the proper spellings for those in a moment.

Mr Chairman, thank you and the committee for the opportunity to present this private member's bill this morning.

Redeemer University College is a highly respected, not-for-profit Christian university with a strong liberal arts background. It offers over 20 disciplines. In 1980 it received its initial charter. It's been educating thousands of Ontario students. In 1998 this committee, in its wisdom, granted the college the opportunity to grant bachelor of arts and bachelor of science degrees. In 2000 the committee authorized the name change to Redeemer University College. It is a full member of the Association of Universities and Colleges of Canada. Its graduates have been accepted for post-graduate studies at over 70 universities and are employed in a wide variety of professional fields.

Redeemer has applied to the Ontario College of Teachers for initial accreditation of its teacher education program; in fact, that is what the bill that is before the

committee today will enable us to do. A very favourable outcome is anticipated once this process is completed by the fall of this year. The accreditation process will begin as soon as the appropriate degree-granting authority is approved by the Legislature.

Passing this charter amendment will enable Redeemer University College to contribute to the growing need in Ontario for new teachers for elementary and secondary schools. By passing the charter amendments previously, and these, we will allow more and more of these students to receive their education here in Ontario instead of having to go to the United States, which is one of the significant achievements in which the Legislature supported Redeemer University College.

The committee may wish to ask our colleagues some questions. Dr Cooper is here to share a few words as well.

The Chair: Thank you, Mr Jackson. Do any of the applicants have comments?

Dr Justin Cooper: We're pleased to be present today to seek approval for a B Ed degree for our teacher education graduates. As you've heard, Redeemer has a solid track record, also in teacher education, as has been demonstrated in its academic review. I think it's also clear that there is a pressing need for more qualified teachers in this province, so we trust that the committee will respond by recommending approval of a B Ed degree for the graduates of an accredited program at Redeemer University College.

The Chair: Are there any other comments by the applicants? Very well. Mr Kells, your comments.

Mr Kells: As far as the government is concerned, we wholeheartedly support this amendment. There are no negative comments whatsoever; it's positive all the way. We are very pleased to support the bill.

Mr McMeekin: Let me just echo the kind and very appropriate words that have been spoken today with respect to Redeemer. This venerable institution is in my riding, and it enjoys an incredibly positive reputation. I've had the good fortune to spend a fair bit of time with many of the very promising students at Redeemer and can attest to this institution's growing importance on the educational scene as well as their clear ability to do their due diligence and to be out front in terms of planning to respond to the challenges that are presenting themselves.

In addition to my desire to see this bill passed and to affirm the leadership of this university, for the record I can add that I polled all the incumbent members in the area and I concur that there is absolutely no disagreement among any of the Hamilton and area members of the Legislative Assembly. We're all very strongly of the view that we should be insisting that this institution move forward in this way. Therefore we are prepared to support this without hesitation or reservation.

1030

Mr Bisson: I just have a question. As you well know, we passed a similar bill a couple of years ago—I don't exactly remember the date. We gave you degree-granting ability then. What's different now?

Dr Cooper: The bill in 1998 gave us bachelor of arts and bachelor of science degrees. The amendment in 2000 changed our name to reflect the university status. So this time what's new is the bachelor of education degree specifically.

Mr Bisson: My question to the Chair or to the clerk is that—OK, I thought we had given the right to grant. I didn't realize they had to come back every time there's a new degree to be granted.

The Chair: I'm not quite sure what the—Mr Kells?

Mr Kells: I'm not quite sure either, but I assume we're back here to get the approval and to put a new bill. So I'm assuming that they have to—

Mr Bisson: My point is that I thought we gave them the ability to be able to grant degrees based on some sort of mechanism in the bill that would allow them to grant future degrees.

The Chair: It was bachelor's degrees then. Mr Jackson for clarification.

Mr Jackson: Mr Chairman, if I may, the procedures and approvals for the Ontario College of Teachers, the new process established by the government in the last few years, is that when we are expanding the number of graduates, there's a separate stream and a separate process that's involved in granting—

Failure of sound system.

Mr Jackson: —approval and have worked out the fine details and will continue with the college, as was referred to, as well as with the ministry to make sure that they follow the criteria, which is a little different from just granting an ordinary degree in the province.

Mr Bisson: That's not so much my question. I have no problem giving you authority on the bill and letting it pass. My question is this: if a university in Ontario decides it's going to add a new program, Laurentian University, Ottawa, U of T or whatever, I don't recall this committee every time having to grant the ability to grant a new degree at a university. What's different? Is it because it's having to grant the degree in a teaching program?

Mr Jackson: Yes.

Mr Bisson: Is it only that?

The Chair: Mr Cooper?

Mr Bisson: I'm asking leg counsel.

The Chair: I'm not sure—

Mr Bisson: No, but I'm asking leg counsel.

Ms Susan Klein: I'm not sure of the, let's say, public universities, what their legislation says exactly, but the legislation for Redeemer specifically lists the degrees they can grant. So if they want to grant a different degree, they have to amend their legislation.

Mr Bisson: I've got it. So because they're not a public university—because under a public—

Ms Klein: I don't know if you can say—

Mr Bisson: If there's a new program added, there's a mechanism within the ministry to approve the new program.

Ms Klein: There may be.

Mr Bisson: Yes. OK. And there isn't because it's a private—yeah, got you. That's all I needed to know.

Mr Toby Barrett (Haldimand-Norfolk-Brant): Just to clarify, in 1998, as Mr Jackson said, this committee in its wisdom did grant Redeemer the ability to grant both BA and BSc degrees in addition to the theological degrees. I was very pleased to be the Chair of the committee at that time. I understand they were required to go through several reviews, which I also understand they passed with flying colours, and also made amendments to ensure that proper student protection methods were also in place and had met the requirements of that as well.

I have a question. My riding of Haldimand-Norfolk-Brant is to the south of Hamilton. Many, many students have gone through your institution, students for example who have graduated from Jarvis Christian school, which is directly south of Hamilton, as you know. We're all aware that changes to the Ontario Income Tax Act are certainly confirming our commitment to fairness and parental choice. I know the favourable impact that's having with parents and families who send their students to Jarvis Christian school and as they move up through the system. I just wondered if you could comment on the impact of those changes to the Income Tax Act on Redeemer college and your student body.

Dr Cooper: There is no direct impact, since the legislation does not apply directly to us, I think, as you understand. Indirectly, we get about half of our students from public and separate schools; we get half of our students from independent schools. I think it's fair to say that this may make it easier for students from independent schools to afford to come to Redeemer University College. So there may be an indirect positive benefit or impact.

Mr Barrett: OK. Thank you.

The Chair: If there is no opposition to this—and clearly most people are supportive—are we ready for the vote?

Mr Kells: Yes.

Mr Bisson: Indeed.

The Chair: So we're going to move on to voting on the bill.

Shall section 1 carry? All in favour? Any opposed? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

The bill is passed. Thank you, applicants. Thank you, sponsor. Further, sponsor?

Mr Jackson: If I may, on behalf of the faculty, the friends, and the family of Redeemer University College, to quote the Psalms, we'd like to express our appreciation: "This is the day the Lord hath made. Let us rejoice and be glad in it." Thank you.

The Chair: Thank you, Mr Jackson.

There is no other item of business. Thank you very much. The meeting is adjourned.

The committee adjourned at 1036.

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Journal des débats (Hansard)

Mercredi 4 juin 2003

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé

Chair: Rosario Marchese
Clerk: Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 4 June 2003

Mercredi 4 juin 2003

*The committee met at 1007 in committee room 1.*THUNDER BAY COMMUNITY
FOUNDATION ACT, 2003

Consideration of Bill Pr20, An Act respecting the Thunder Bay Foundation.

The Acting Chair (Mr Morley Kells): I'd like to call the meeting to order. I notice our friends the NDP are not here, but I'm sure we can proceed. First of all, we're going to have Bill Pr20. I don't quite understand what teleconferencing is, but we're going to have it. Would the honourable member Mr Gravelle sit in? Is there anybody else with you, Mr Gravelle?

Mr Michael Gravelle (Thunder Bay-Superior North): I believe that the applicant, Mr Atwood, is on the line in Thunder Bay.

The Acting Chair: With the wonders of teleconferencing, would you please introduce it first, Mr Gravelle, and then we'll chat.

Mr Gravelle: Thank you very much, Mr Chair. The Thunder Bay Foundation was constituted as a body corporate by a special act of the Ontario Legislature in 1971. Since that time, there have been several changes to the various acts that govern how a public foundation can operate.

The Trustee Act has been changed by one of the many red tape reduction acts. As a result, trustees are no longer tied to the old investment provisions of the prior Trustee Act but are now governed by the prudent investor rule. Without a new act, the Thunder Bay Foundation continues to be bound by the old Trustee Act investment provisions. As a result of this bill, the trustees will now be governed in their investment decisions by the prudent investor rule and will be able, if they choose, to invest in mutual funds for the first time.

Time and events have moved on and changes are required of the foundation. Nationally, there has been a growth in the number and size of community foundations, such that the word "community" now has a significance to donors and recipients. This new special act of the Ontario Legislature will rename the foundation the Thunder Bay Community Foundation, a better reflection of the activities of the foundation in the district of Thunder Bay.

I have been working with Mr Atwood, a former member of the foundation, for a couple of years, and I know the clerk has as well. I have a particular interest in this as well because my late father was the executive director of Thunder Bay Foundation for many years. So I'm pleased to be here today and hope that we can move forward and have this legislation passed.

The Acting Chair: Thank you. I can't imagine a better recommendation than yours and your father's.

Mr Gravelle: Absolutely.

The Acting Chair: Is Mr Atwood on the telephone with us?

Mr John Atwood: Yes, good morning, Mr Chair.

The Acting Chair: Would you proceed, Mr Atwood?

Mr Atwood: As our member, Mr Gravelle, has indicated, I was on the board of the foundation and have been involved for a couple of years in putting together what's before you this morning. In particular, what you have as a part of your package is a compendium of background information. I put that together, its purpose being to summarize for the members of your committee just exactly what is proposed in this amendment. I think in large measure, Mr Gravelle has given you a summary of what the amendment proposes.

The main motivating factor was the fact that this private bill is from 1971. There have been changes over the years in the manner in which monies are invested. Now we have the prospect of professional money managers. The general thinking these days seems to be that it's useful for boards to work with professional money managers to maximize the return, in a conservative sense, available with respect to invested monies. The board of the Thunder Bay Foundation really felt that the words of the existing legislation tied the hands of the board and didn't clearly allow the board to make use of these new techniques. So that's what got the discussion started about perhaps an amendment. A little committee was formed of the board members.

In addition to recognizing the changes from an investment perspective, it was thought we would do a few housekeeping things as well, one of which was the renaming of the foundation. It really is quite central to what goes on here in Thunder Bay. I'm grateful to be able to participate by telephone from Thunder Bay—not that I mind coming to Toronto, but to be able to do it this way is really useful for me and I'm grateful for it. We

had our meetings, and one of the thoughts was to call the foundation the Thunder Bay Community Foundation.

From its text, it looks to raise funds. It started from an anonymous donation back in 1971. It's grown to something more than \$3 million, verging on \$4 million in its account. It provides money every year for good purposes here in Thunder Bay and in the district of Thunder Bay. One of the housekeeping changes was the notion of changing the name to the Thunder Bay Community Foundation, and a few other little housekeeping items.

For example, there was a provision in the existing act that we publish our financial statements annually in the newspaper. I have to admit that for the years I was on the board, it just didn't happen; it had stopped happening. So when we did this we recognized that and that we wanted to do things by the book. We thought, "Let's propose a change that still makes the information available to the public but in a more cost-effective sense." So you'll see one of the changes is that there will be financial statements. With the auditor for the foundation, I reviewed the text, the words that are in the proposed amendment. What is proposed is that a notice be put in the local newspaper every year announcing the fact that the financial statements are complete and that they're available for inspection at the offices of the Thunder Bay Foundation. So again, that's just an example of a housekeeping change.

I think apart from that, I'm here, available, and have been quite involved in the process for the last couple of years. I've had the able assistance of a number of your legislation assistants, Susan Klein in particular. She's been a tremendous wordsmith in helping us put all of this together. When we had a draft, I then worked with the office of the public guardian and trustee. I had to make some adjustments to satisfy a few concerns that the office of the public guardian and trustee had and, in particular, Mr Nick Hedley. But we've done that, so as best I know, what you're looking at is wording that is acceptable to the legislative assistants that we worked with, certainly acceptable to us, representing the Thunder Bay Foundation, and also acceptable to the office of the public guardian and trustee.

Apart from that, questions? I'm happy to try to answer them.

There is a request that I've enclosed as well. Because we're a non-profit group, recognized as such by Canada Customs and Revenue, you have the power as well to waive the fees. So as an adjunct to what we're doing, I wanted that request to be brought forward as well. But I've said enough.

The Acting Chair: Thank you, Mr Atwood. I would say that's a very detailed explanation of what we're about today. We're pleased to have you on the telephone. It's only Air Canada that probably isn't as happy. It seems a sensible way to do business. Thank you very much. If you'll just stand by as we roll through a little more detail here.

Mr Atwood: Sure. Thank you very much.

The Acting Chair: Besides pinch-hitting as the Chair, I am also the parliamentary assistant to the Minister of Municipal Affairs, and we have no objection from that point of view, obviously, and as you mentioned, the public trustee's office has no objection. So we have no objection from either government ministries or other parts of the system. The next thing we do is move on to ask our members if they have any questions of Mr Atwood or Mr Gravelle.

I think you've been so straightforward and detailed, Mr Atwood, that this is a slam dunk. Thank you very much.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): If I may, I know one of the subtle requests that Mr Atwood made was to waive the fees. I have no objection to that if the committee so decides.

The Acting Chair: You're anticipating what I'm going to ask you, but we'll move forward. First of all, are you ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House?

Thank you.

We have a request to waive fees and printing costs and I certainly would like a motion in that regard.

Mr Gravelle: Could I ask, Mr Chair, that the committee give consideration to waiving the fees and printing costs associated with Pr20, An Act respecting the Thunder Bay Foundation, under standing order 80(d) for charitable organizations?

The Acting Chair: Yes, that's in order. Would one of you honourable members move that?

Mr Pat Hoy (Chatham-Kent Essex): I would move that.

The Acting Chair: Moved by Mr Hoy, seconded by Mr Gill.

All in favour? Carried.

It's been a pleasure to do this kind of business. Thank you, Mr Atwood.

Mr Atwood: Thank you, Mr Gravelle, Mr Chair and members of the committee. It was a pleasure participating in this fashion.

Mr Gravelle: Thank you very much, Mr Atwood and members of the committee. I wish all things went as smoothly as this. I hope we can get this through third reading before the spring session rises.

The Acting Chair: I think with a little help from the House leaders, we could get that done.

Mr Gravelle: I understand that's how it works, Mr Chair. Thank you.

MUNICIPALITY OF
CHATHAM-KENT ACT, 2003

Consideration of Bill Pr12, An Act respecting the Municipality of Chatham-Kent.

The Acting Chair: The next order of business is Pr12. Mr Beaubien, will you please introduce the gentleman with you.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Thank you very much, Mr Chair. I have with me Mr Chris Masterson, general manager of engineering and water and waste water services in the community of Chatham-Kent.

It's also my pleasure this morning to introduce Bill Pr12, An Act respecting the Municipality of Chatham-Kent. Mr Chair, this bill was introduced last fall. If I recall, there was no objection from anyone on this particular issue. I'll read the explanatory note on the back of the first page. It says, "The restructuring order that created the municipality of Chatham-Kent specified that certain bylaws and resolutions of the former municipalities and their local board ceased to be in force on December 31, 2002. The bill changes this date to December 31, 2004. The bill is made retroactive to December 31, 2002."

As I pointed out, the bill was introduced last fall but, because of a technical glitch, it was not presented to the House for final reading. Consequently, when the House was prorogued, the bill died on the order paper.

I'm sure Mr Masterson is quite willing to answer any questions if any of the members have some.

1020

Mr Hoy: I wonder if I might ask what the technical glitch was. Was the bill in order at the time?

Mr Beaubien: Yes. It's my understanding that the bill was in order, but on the last day that the House was sitting, it was missed for some reason by whoever was presenting bills at the time. Consequently, it was left lying on the sidelines and it died on the order paper. But the bill itself was proper.

The Acting Chair: It appears to be a government error or omission, one or the other.

Mr Beaubien: I'm not going to point my finger at anyone. My mother always told me that if I point my finger at somebody, three will be pointing back directly at me.

The Acting Chair: Any other questions, Mr Hoy?

Mr Hoy: No. I just wanted clarification on why this bill didn't proceed.

The Acting Chair: Do the government members have any questions? Well, with that in mind, Mr Masterson, are there a few words you'd like to say just to complement Mr Beaubien's explanation?

Mr Chris Masterson: I'd just like to thank Mr Beaubien for bringing the bill forward. Basically, the municipality is diligently working to finalize and alter its bylaws, and we hope the extension can go through.

The Acting Chair: You've gained two years out of it anyway, haven't you?

Are the members prepared to vote? We're going to shorten it this time.

Shall sections 1 through 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Shall it carry? Carried.

Let's get it passed this time.

KITCHENER-WATERLOO
FOUNDATION ACT, 2003

Consideration of Bill Pr23, An Act respecting the Kitchener and Waterloo Community Foundation.

The Acting Chair: We'll have just a slight delay here until we find the honourable member, Mr Wettlaufer.

Mr Wettlaufer, please be seated. We are now moving on to Bill Pr23. Would the honourable member provide us with his comments and introduce his helper, if I may use that term?

Mr Wayne Wettlaufer (Kitchener Centre): You'll have to excuse me. I was in another committee room and I had to run down here because I knew you were in a hurry.

We are sponsoring a bill for the Kitchener-Waterloo Community Foundation. I have Teresa de Haan with me. She will go through all the particulars with the committee.

Ms Teresa de Haan: The Kitchener-Waterloo Community Foundation was first incorporated by a private member's act in 1984, and there have been two amendments since.

Similarly to Thunder Bay, one of the key things they'd like to do is to make themselves subject to the prudent investor test. Again, similar to Thunder Bay, the requirement that they imposed on themselves to publish the financial statements in the paper wasn't happening.

In addition to those things, as I've outlined in the compendium, there are some housekeeping items they wanted to include in the amendments. First of all, they wanted to simplify their act by deleting the examples in subsection 4(1). They wanted to simplify it by omitting those examples.

The second amendment is they'd like to not constrain themselves to a fixed range of directors, so they'd like to have a minimum of nine but the maximum number being open.

The third amendment they'd like is to allow the past president to continue on as a voting member, even if he or she has had three consecutive terms, so that there is a continuity of leadership.

The fourth amendment is they'd like to just update the language. Instead of referring to the "president," they'd like to refer to the "chair" with respect to people on the nominating committee.

The next amendment they'd like is, in combination with the prudent investor test, to give themselves the

freedom to use a money manager or an investment manager.

The next amendment is to section 12(g). They wanted to clarify the language so they could retain monies to offset the effects of inflation on capital.

The next one is specifically regarding the prudent investor test.

The second-last amendment in the compendium is to give themselves the ability to direct donations out of the country if a donor specifically directed them to do so. However, the intent of the foundation is to primarily service the local area, and that hasn't changed.

The last amendment in the compendium is regarding the publication of financial statements in the newspaper. They wanted to delete the requirement to publish donors' names. So they'll still be publishing the financial statements; it'll just be a different format.

I believe you have in front of you a final amendment. This one is to be done as a motion. It's just a house-keeping one to make it crystal clear that board members can only sit for three consecutive terms, not one plus three consecutive terms. That's in the motion you have before you.

The Acting Chair: We haven't moved it yet, but we shall. May I ask if any of the members have questions before we proceed further? It appears to be pretty straightforward, and thank you for your detailed explanation.

I would ask the government member, Mr Gill, if you would move the motion, and please read it.

Mr Gill: Do we want to go to section 2; pass 1 first?

The Acting Chair: You want to wait until we get to it. OK, I hear you.

We're going to vote if you're ready. Shall section 1, as amended, carry?

Interjection.

The Acting Chair: I'm getting some new instructions here. Let's start again.

Shall section 1 carry? Carried.

So for section 2, we're going to have a motion.

Mr Gill: I've got a motion for the amendment, and if you will recognize me, I will—

The Acting Chair: Yes, please proceed.

Mr Gill: I move that subsection 6(6) of the Kitchener-Waterloo Foundation Act, 1984, as set out in section 2 of the bill, be struck out and the following substituted:

"Reappointment

"(6) Directors are eligible for reappointment for such consecutive terms, not exceeding two, as determined by by-law of the board, so that no person may serve for more than three consecutive terms, but a person may be reappointed after one year has elapsed after he or she ceased to hold office."

The Acting Chair: Are there any questions on the amendment? That being the case, shall section 2, as amended, carry?

Interjection.

The Acting Chair: We want to vote on it first. OK. Let's vote. Can we vote on the motion?

All in favour? Carried.

Now can I say shall section 2, as amended, carry? Carried.

We're on target now. Let's try this one.

Shall sections 3 through 8 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House, before I get stabbed to death here with this pen? Carried. Thank you very much.

Ms de Haan: I'd like to also request, similar to Thunder Bay, that the fees and related printing costs be waived. Similar to Thunder Bay, it's not-for-profit.

The Acting Chair: I would entertain a motion to that.

Mr Beaubien: I'll move it.

The Acting Chair: Mr Beaubien moves that we waive the costs. Will you second that, Mr Hoy?

Mr Hoy: Yes.

The Acting Chair: All in favour? Carried.

You got that in just in time. Thank you very much, everybody.

Mr Gill: Are we adjourned?

The Acting Chair: Yes, we're adjourned.

The committee adjourned at 1030.

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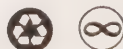
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*The committee met at 1005 in committee room 1.*SOCIETY OF PROFESSIONAL
ACCOUNTANTS OF ONTARIO ACT, 2003

Consideration of Bill Pr6, An Act respecting the Society of Professional Accountants of Ontario.

The Chair (Mr Rosario Marchese): I would like to call the meeting to order and welcome everyone. There seems to be a great deal of interest in the issue that we're about to deal with. We're dealing with Bill Pr6, An Act respecting the Society of Professional Accountants of Ontario. The sponsor of this bill is Raminder Gill.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Chair and members of the committee, I'm pleased to be a sponsor of this private member's bill. As members would know, any body that wants to bring forward a bill has to be sponsored by a member. I'm pleased to be sponsoring it, which in no way is yea-or-nay support on my part; I'm here to present the bill. As we can see, there are several interested parties here and I'm sure they'll be happy to bring it forward and answer any questions.

Today I happen to be a member of the committee as well. So with your permission, I will go back to my chair and listen to the proceedings.

The Chair: Very well. Thank you, Mr Gill. We'll call the applicants: William Nichols, Zubair Choudhry, Bernie DiVona and Louise Pelly. If you would just introduce yourselves as you speak, for the purposes of Hansard, so that we know who you are.

Mr William Nichols: Good morning, ladies and gentlemen. My name is William Nichols. We appreciate the opportunity to share our aspirations with you and we look forward to your support.

I'm president of the Society of Professional Accountants of Ontario. I served as director of finance and secretary-treasurer for Markham Hydro Electric Commission, the 10th-largest municipal utility in Ontario. I also served there as acting general manager.

I should first like to convey our thanks and appreciation on behalf of the board to Mr Raminder Gill, MPP, for sponsoring Bill Pr6. I am pleased to introduce to the committee Bernie DiVona, Zubair Choudhry, and Louise Pelly, who is our litigation expert.

The proposed private bill would continue the Society of Professional Accountants of Ontario as a corporation without share capital, but more importantly will give the society much-needed tools in its ongoing efforts to regulate and discipline its members, and most importantly to regulate its designation, "RPA."

The Society of Professional Accountants of Ontario has been established as the Ontario zone of the Canadian Institute of Accredited Public Accountants since 1978. The Canadian Institute of Accredited Public Accountants was first created in 1938. The designation RPA has been in use since in 1989 and the society was registered originally under the Partnerships Act.

After re-registration was declined, efforts were made to secure statutory incorporation by private bill. Since this was not forthcoming by the close of the year 2001, the society was incorporated in January 2002 as an Ontario corporation by letters patent without share capital.

Enacting Bill Pr6, an Ontario statute, would provide the legal framework to regulate and discipline members as a self-governing profession in Ontario. The provincial statute would provide the society with the authority to regulate and discipline members designated as registered professional accountants, RPAs, as follows: only registered persons may purport to be a member; anyone who contravenes is guilty of an offence; authorizes the society to decide who is registered; inspect the practice of members who are practising; and discipline such persons for any breaches of professional ethics or for professional incompetence.

1010

The society has the knowledge and experience requirements that individuals must possess in order to become and remain members. Details are set out in the background material submitted in the package to your committee members at index 5.

The society currently has a legal basis for its designation RPA, but has authority only to seek redress in a civil court from an unregistered person who may use the mark RPA. The protection of this word mark is important to the society. As you will see at index 7 of the material that I submitted, the RPA designation is already recognized as a valid guarantor by the Ontario registrar of vital statistics and the federal passport office.

The civil process that is currently required is onerous and expensive. This bill will make protection of the word mark faster and more efficient.

The impact of enactment into the law of this province Bill Pr6 will provide improvement in professional standards, improvement in the credibility of the profession, protection of the title for those who have achieved standards, identification for the public of competent and ethical practitioners, and professional recognition.

Registered members will benefit from increased respect for the professional designation RPA, increased income for members, better quality of practice for practitioners, protection from unethical practitioners, and partial relief from joint and several liability.

Our members are not seeking to challenge the existence of the rights of other accountancy bodies in Ontario, and the bill expressly provides in subsection 11(2) that membership in the society does not include the right to practise as a public accountant. We are not seeking to establish a new accountancy body; rather, we're seeking to improve the accountability and recognition of a group established since 1978. No government resources will be required to finance the society.

In conclusion, the Society of Professional Accountants was granted a charter as a corporation by letters patent under the provisions of part II of the Canada Corporations Act on August 2, 1991. Members designated as registered professional accountants, RPAs, are eligible passport guarantors, and the Society of Professional Accountants participated on the committee to review the licensing of public accountants in June 1993 at the invitation of the Attorney General.

While the RPA credential is recognized by the Civil Service Commission in Ontario on the same basis as the CA, CGA and CMA credentials, the Public Service Commission of Canada will only recognize the credential if the organization is enabled to carry out its objects and govern and discipline its members under provincial legislation. The Society of Professional Accountants of Ontario was therefore incorporated as a corporation without share capital under the Corporations Act (Ontario), and is seeking continuation by way of a private bill in order to put the Society of Professional Accountants on the same basis as the other professional organizations.

The bill is necessary to grant the Society of Professional Accountants of Ontario the legislative authority to carry out its objects in Ontario and to govern and discipline its members.

The enactment into law of Bill Pr6, the Society of Professional Accountants of Ontario Act, 2003, will offend no existing legislation. Gentlemen and lady, we'll leave this matter in your hands and hope you will give active consideration to help us strengthen the viability of our organization. Thank you for providing me this opportunity to speak to the bill on behalf of our members. We now await questions on the bill from members of your committee.

The Chair: Thank you very much. We do have other interested parties who want to comment. We also have Mr DiVona, who would like an opportunity to speak as well.

For the purposes of some fairness, I will allow three interested parties to speak, then allow Mr DiVona to make some comments, and then we will have the Ministry of the Attorney General complete this process, assuming there are no other interested parties.

If you will permit other interested parties, I call the Institute of Chartered Accountants of Ontario to come forward. That would be Tom Warner and Peter Varley. Please identify yourselves again for Hansard.

Mr Tom Warner: I'm Tom Warner, vice-president and registrar with the Institute of Chartered Accountants of Ontario.

Mr Peter Varley: Peter Varley, vice-president of public affairs for the institute.

Mr Warner: I'd like to thank the committee very much for giving us the opportunity to appear this morning and to make a short presentation.

The Chair: My apologies. I didn't tell you how much time you have. I was quite willing to permit three minutes. We could stretch it a bit beyond, if we need to, but please try to keep it within that time frame.

Mr Warner: That should be sufficient.

The Chair: Very good.

Mr Warner: On behalf of the 33,000 chartered accountants and CA students in Ontario, I wish to express our strong opposition to Bill Pr6, An Act respecting the Society of Professional Accountants of Ontario. We have been on record over the years as opposing the incorporation of the Society of Professional Accountants of Ontario, which would allow its members to be known as "registered professional accountants" and to use the initials "RPA."

There are already three well-established accounting bodies in Ontario that provide for the entire spectrum of the public's needs and for access to membership in them for all who are qualified. We believe that the creation of an additional accounting body in the province will proliferate the number of designations, confuse Ontario citizens and businesses and mislead them into thinking that the standards of the proposed new body are similar to the three established bodies. Those bodies are: the institute, which awards the CA designation; the Society of Management Accountants of Ontario, which awards the CMA designation; and the Certified General Accountants of Ontario, which awards the CGA designation.

The Society of Professional Accountants of Ontario is not in the same category as any of these other three accounting bodies when the education, examination and experience requirements for qualification and the ongoing measures of management and regulating members in the public interest are considered. Its members being more like individuals who receive diplomas in accounting, the Society of Professional Accountants of Ontario does not require separate legislation.

In addition to our general opposition to the incorporation of the Society of Professional Accountants of Ontario, we have specific concerns about the measures contained within Bill Pr6. Subsection 6(b) of the bill

provides as one route for admission to membership without completing the normal RPA qualification program that an individual may hold “a licence to practise as a public accountant in any jurisdiction in Canada.”

Subsection 11(2) of the bill states, “The rights and privileges of a member of the society do not include the right to practise as a public accountant, as defined in the Public Accountancy Act, unless the member is licensed under the act.”

However, it is our submission that these provisions set the stage for future lobbying efforts by RPAs to seek recognition as a designated body for public accounting purposes under the Public Accountancy Act by claiming that some of their members who are “public accountants” are being unfairly denied access to licensing. RPAs have shown in the recent past through a written submission to the Red Tape Commission, which was reviewing the issue of access to public accounting in Ontario, that they aspire to be recognized through public accounting licensure in Ontario.

1020

With the recent passage of Bill 213, CMAs, CAs and CGAs will have access to the practice of public accounting in Ontario. We understand that one of the objectives sought with the passage of Bill 213 was to put an end to the decades-old dispute among these accounting bodies over who should have access to public accounting licensing in Ontario. Yet, it is likely that the adoption of Bill Pr6 will only open up a whole new round of lobbying on the part of a fourth accounting body with a new accounting designation.

We strongly urge that Bill Pr6 not be adopted for the reasons we have outlined today. Thank you.

The Chair: Questions of the interested party?

Mr Gill: Thank you for being here. One quick question: did words like “not in the same category” come forward before, perhaps when the CGAs or CMAs brought something similar forward?

Mr Warner: There are certainly differences between the existing three accounting bodies in terms of the requirements for obtaining each of the respective designations. Our submission is that the RPAs are considerably different from the other three in respect of their education, examination and experience requirements and that they are training people, in fact, at a much lower level in terms of the kinds of services they would be able to provide.

The Chair: Other questions? Seeing none, we thank you for your presentation.

We'll invite other interested parties: for the Public Accountants Council for the Province of Ontario, Mr LaFlair and Mr Lipton.

Mr Kevin Weber: Mr Weber, actually, from Mr Lipton's office.

Mr Peter LaFlair: Committee members, thank you very much for giving us the time to present our views on this act. We think that the subject matter affects public policy and it is contrary to the public interest in some ways. We also feel that it adversely affects the rights of

Ontario's professional accountants. As such, it might be more properly the subject of a public bill than something before this committee. That said, we did put our comments in writing and they are before you, I believe.

The Chair: Yes. Every member has it.

Mr LaFlair: We think that the RPA designation is currently used to indicate persons qualified to practise public accounting. Its use in Ontario by those not so qualified would mislead and confuse the public. In effect, this bill asks the Legislature to sanction the use of a “designation or initials indicating or implying that the person is licensed as a public accountant.” That particular wording comes from the current Public Accountancy Act. That means that people using a designation or initials indicating or implying they're licensed would be in contravention of the act, which is no doubt one of the reasons they are seeking this act. That provision is intended to protect the public from such misrepresentation and confusion. That's one of the reasons, the main reason, for our strong opposition to this bill.

The next part of our presentation sets out what the functions are of the council as set out by the Public Accountancy Act. It basically requires that persons who practise public accounting meet minimum qualifying standards and then sets out rules of conduct that govern the standard of practice in that profession. It then places the responsibility for that regulation on the licensed members of the profession.

Anybody who's preparing financial statements that are going to be used outside of an organization is required to have a licence, but anyone now can produce financial statements that aren't for use outside of the organization. So you don't have to be licensed. There's no restriction against any of these people from currently performing such work.

The council is responsible for prosecuting persons who aren't licensed who use the name or title of public accountant, or its equivalent, or hold themselves out as public accountants, or use any designation or initials implying or indicating that they are licensed.

As was mentioned previously, there are the three existing bodies. Each is part of a national organization. Each has its own different set of recognized professional standards. I guess we don't believe the public policy reason has been demonstrated to justify a further accounting designation. We don't see a demonstration of a recognized distinct scope of accounting activity that requires licensure and protection. The request for such a grant implies the existence of current government regulation oversight and responsibility over this kind of activity, but there isn't any. There's no restriction. Any person may produce and report on that information for private use.

As best we can determine, the sole reason for this incorporation is to assist people who have not met the standards of the CAs, CGAs or CMAs, but nonetheless wish to represent to the public that their training, experience and education has been examined and deemed

worthy of government recognition. That would, in the eyes of the public, perhaps give them some equality.

This designation they seek would be easily confused with titles used currently in the United States of America, which designates people who are qualified to practise as public accountants. The majority are CPAs in the States—certified public accountants—who use the designation CPA. But there are also PAs, RPAs and LPAs to indicate qualified public accountants. They have licensed public accountants who use PA, RPA, APA, AP and LPA. In fact, there are some jurisdictions, including, I believe, New York, which specifically say you can't use RPA because you're not licensed. There is confusion, and they've tried to avoid it through their legislation.

As you're probably aware, users of financial information have a wide variety of backgrounds, sophistication and understanding of what they're getting. The general public, however, lacks the knowledge necessary to make an assessment of the accuracy of performance that someone who is a director of a public company, for instance, might have.

The Chair: Mr LaFlair, I'm going to ask you to wrap it up as soon as you can.

Mr LaFlair: OK. I think, then, what we see is that this act would also bring a liability on to current professional accountants—the CAs, the CGAs and the CMAs. They are all professional accountants. They can no longer call themselves professional accountants who are registered with either the CAs, CMAs, CGAs, or licensees. They're registered as licensees. They could no longer call themselves registered professional accountants, and we think that that takes away one of their rights.

I think some of the historical background is there. There are also copies of previous submissions we've made, which indicate that we've been concerned with this for some time.

Have I missed anything, Kevin?

Mr Weber: Not at all, Peter. But the two main points to be made are:

(1) The term "professional accountant" simply means an accountant who practises for reward, and "registration" simply means being registered with an organization. In that, there are currently thousands of registered professional accountants in the province. They all have the right to use that designation. This bill would take that right away from them and give it to a much smaller group of people. So right away, it's something affecting thousands of people, not simply a small designated group, as is appropriate for this sort of bill.

(2) It does create confusion. The terms CA, CMA and CGA, by the simple fact that they don't have a "P" before the "A," can't possibly be confused with the term "public accountant" and can't possibly create an exception to the rule in 24(1)(c) of the Public Accountancy Act, which prevents people from using confusing designations. By having an RPA, that can easily be misread by someone who is not familiar with the regime to mean "registered public accountant." In effect, this would create an exception to a section in the Public

Accountancy Act which is designed to protect the general public. Now we've gone beyond the few thousand people who are currently accountants. We're dealing with something that affects the general public of Ontario.

The Chair: Thank you, Mr Weber. Questions of the interested parties by any member? Seeing none, we thank you.

1030

Mr David Hipgrave: Good morning. I'm David Hipgrave, president and CEO of the Society of Management Accountants of Ontario. Thanks for the opportunity to appear before this committee. I believe there is a letter that we sent to the clerk of the committee which has been distributed to committee members.

The Society of Management Accountants is a professional association responsible for the accreditation, regulation and continuing professional education of certified management accountants in Ontario. The society currently has 15,000 certified members and 3,500 candidates in the province. We are an integral part of CMA Canada, which has 44,000 members across Canada and around the world. We have a tradition of taking a leadership role on issues affecting the accounting profession. As a professional organization, we strive to ensure that the positions we take on various issues reflect what we feel is in the public interest. This was our position in reviewing and commenting on the issue of incorporation of the Society of Professional Accountants in previous years, and it is unchanged today.

Today, I wish to respectfully express the society's opposition to the application by the Society of Professional Accountants of Ontario for special legislation to enable it to grant the designation Registered Professional Accountant, RPA. Our opposition is based on three primary reasons: first, fair access to the profession; second, full coverage of marketplace needs; and third and last, undue risk of public confusion. Let me briefly expand on these three points.

Fair access to the profession: the Society of Management Accountants of Ontario believes that currently there are no arbitrary or unreasonable barriers to entry into the accounting profession in Ontario. While each of the three existing bodies—the Certified General Accountants Association, the Institute of Chartered Accountants and the Society of Management Accountants—has varying entry requirements, none imposes conditions or requirements that would make a fourth accounting body necessary.

Full coverage of marketplace needs: the Society of Management Accountants believes that the three existing bodies provide a full range of accounting and business advisory services to businesses of all types and sizes. The breadth and depth of services available to all organizations, including small businesses, do not make a fourth accounting body necessary.

Undue risk of public confusion: the Society of Management Accountants of Ontario is concerned that if this application were successful, it could lead to confusion about the very different roles and accreditation processes

of what would be two accounting societies in Ontario. In addition, the Society of Management Accountants is also concerned that the public may believe that the Society of Professional Accountants is an umbrella group representing all professional accountants in Ontario, which of course it is not.

On behalf of the Society of Management Accountants and our 18,500 members across Ontario, I would like to restate our strong opposition to this application. Thank you.

The Chair: Thank you very much. Questions of the deputant? Seeing none, we thank you.

We call back Mr DiVona, and Mr Choudhry as well, if you'd like to come back in case members have questions for you. I've forgotten to ask that questions of the members before.

Mr Bernie DiVona: Good morning, Mr Chair, members of the committee. My name is Bernie DiVona. I am a registered professional accountant in Ontario. I want to come here on my own accord to support the proposed legislation.

Very briefly, I'd like to use myself as an example of why I support this legislation and why, in fact, I think it's necessary, appropriate and in the public's best interest in Ontario. I'm a registered professional accountant. I got my first designation, a BA in economics and commerce at the University of Toronto, right across the street. I also have a master's in business administration. I am currently the budget chief of the city of Vaughan, chairman of the audit committee of the city of Vaughan, chairman of the library board finance committee, chairman of the finance liaison committee and immediate past chairman of Vaughan Hydro Electric Commission, the sixth-largest utility in Ontario. On a daily and a regular basis I deal with each of the other professional associations in Ontario in my elected capacity. Therefore, the argument I have heard today and previously in correspondence that we are considerably different, I respectfully submit that in fact by my own interaction and the quality of the work we do, myself and others of our committee do, we currently already do exist. We in fact exist in government, non-government, businesses, consulting and many different parts of our society. We have a role. We currently exist and we provide these services. In fact, not only do we provide these services in Ontario, we actually provide these services in many provinces throughout Canada.

The point I wish to make, if I could, in terms of the education and qualifications and the rest, is that it was as onerous as any other association. In fact, we even have an education committee to that end. We have our committee chairperson here today, if you'd like to ask that person questions. I find that important because when someone makes the argument that we should have fair access, I respectfully submit that the general purpose of this legislation is really basic. It actually says that we wish the right to exist on equal footing as anybody else. We would like, therefore, to provide fair access to those who come to our country who have foreign educations,

foreign designations and experience, to be immersed within the Canadian establishment, be immersed within Canadian business and provided an opportunity to practise.

Are we asking for anything different than any other accounting association in Ontario? We respectfully submit not. Each of the other three accounting associations have had a long history. CAs, to be honest with you, objected to the formation of those other associations, yet they've grown and prospered and provided a benefit. The law says everybody has a right to access, right to exist. That's what this legislation does.

When someone makes a comment that there are three associations in Ontario, does that mean that if you do what we do, it's to our detriment? I would like to submit for your own review that currently there are 12 accounting bodies practising in the United Kingdom. Does that mean that right this minute the United Kingdom is less served by numbers? Numbers don't necessarily mean quality. Numbers just mean difference: a different process, different accesses. We respectfully submit that it is in the public's best interest to let the market decide. Allow us to exist, prosper and make the necessary choices.

Is the status quo acceptable? It is our submission that in fact the purpose of this legislation is a normal, natural progression of any association or any group in any field to want to exist.

From the municipal perspective, if I could, two associations were just recently incorporated by a private member's bill. Does that mean we're going to stop that process? I respectfully submit not.

I'd like also to point out that we do not believe people will be confused if there is a different designation after a name. I believe people are smart enough and professional enough to recognize that the quality of the work is necessary and appropriate. If they have a CA, they know what that means. With an RPA they will know what that will mean. Therefore, we're submitting that the fourth-largest accounting association that currently exists, that has members, that is growing and has a public interest, has a role to play.

The last point I'd like to make is that we've repeatedly heard that there is no need in the market, as expressed earlier. We respectfully submit that the accounting associations, the financial reporting, both in this province on our economy and the worldwide economy, do show that there has to be a revitalization and a more active role. For example, the WorldComs of this world, the Enrons and the Northern Telecom fiascos of the past—you know what? That shows that the traditional role of accounting has not met the needs of the people. I'm not saying we're going to be able to solve it, but if we come to the table with our members, our expertise and our professionalism, we respectfully submit that it will provide us the opportunity to make sure those deficiencies that we know currently exist in financial reporting and other aspects can't take place.

We are not asking to become public accountants under the Public Accountants Council. We are not asking to

actually bypass any minimum standards, as was respectfully submitted earlier. We're asking for no other legislation to be encumbered in any way, shape or form. Thank you very much.

The Chair: Thank you, Mr DiVona. Questions to the applicants by any members? Mr Hoy?

1040

Mr Pat Hoy (Chatham-Kent Essex): Either of the people seated can answer this question for me. There is no doubt that this bill has quite a broad scope. For example, it establishes classes of membership within the society; beyond just creating the society alone, it creates classes within it. With the broader public interest and the broader public good in one's mind, why have you chosen not to have this bill presented as a public bill or a government bill? Why have you chosen to go this route, rather than through the Legislature itself?

Mr DiVona: I can only tell you from my perspective. When I got involved three years ago, we were advised that this is the preferred route that the government of Ontario and the staff recommend. Through my conversations with the Premier's office, they advised me to do so. I then went to my own member of Parliament, Mr Greg Sorbara, and he said he would support this legislation, that it is necessary and appropriate and the proper course of action. So we've taken the best action and process that we were advised is necessary and appropriate.

Mr Hoy: I respect your answer. Personally, I think the scope of this bill is quite broad. It affects thousands of people who are already organized, and as you've heard, are opposed to the proposition of Bill Pr6. I really do think that the sanctity of the right to organize is one that should have full public hearing, full debate. You cite my colleague in his support, but I believe all, including the proponents of this society, would be better served if this bill had gone through the Legislature.

The Chair: That's a statement?

Mr Hoy: Statement. They can comment if they care to.

Mr Nichols: We already exist as a corporation. There's no question about it. We are already in existence as a corporation, and the use of RPA is a certified trademark. It's already in use. The privilege you are giving us is really to enforce it.

Mr Zubair Choudhry: I just want to add to what William just said. I think the idea here is not only to maintain the competency of our members, maintain the credibility of our members and provide quality services to the general public; it's also important for this bill to provide protection to the general public and the businesses, so that when they are hiring an accountant, they know that accountant is being disciplined by a body and is not incompetent to provide those services to any business. I think for the general public's benefit, for the small businesses in the province of Ontario—as you know, 80% of the businesses are the engine of the economy of Ontario, and most of our members are providing our services to small businesses.

We are not here to start from scratch; we already exist. We need tools. We want to have that right to discipline our members and maintain their continued education so that they are providing quality services.

Mr DiVona: May I clarify the question, Mr Chair?

The Chair: If I could just ask you to wrap up, because I think I've permitted much comment from the group. One last comment?

Mr DiVona: I apologize. I just want to clarify a comment that I made, and also the question that was asked by the honourable member of Parliament.

He's referring to classes. The bill has classes referred to within. There may be concerns or confusion as to whether we are creating more classes. I'd just like to sit back and reflect upon what will happen with the passage of this bill.

Currently, all our members will have one designation, be recognized and accredited. Therefore, there will be one class for us. At the same time, each of the three other associations will also have their own designation and one class for each of their members.

I would also point out that we, the Society of Professional Accountants of Ontario, also have other associations, other people who are designated, who are members. We have CAs amongst us who have RPA memberships. We have CMAs and CGAs with us. At the same time, concurrently it can be said the CAs also have members, because they have a CA member and an RPA member. There is also a CGA in RPA members, a CMA in RPA members. Right now, as it currently exists, people in Ontario are allowed to have joint designations, joint recognition, joint memberships by their own choice. So the legislation, in fact, does create classes, but it's no different than any other legislation that currently exists.

The Chair: Thank you, Mr DiVona. I thank the group. I think we need to move on. I appreciate it. I think we've had—you have a question?

Mr Morley Kells (Etobicoke-Lakeshore): No, I actually wanted to you ask a question after.

The Chair: You want to ask me a question?

Mr Kells: No, in a few minutes. I'm sorry, I moved too quickly. Finish up.

The Chair: I appreciate all the comments you made. I think we've covered a lot of ground. Thank you.

I will invite the Ministry of the Attorney General staff people to come forward, Mr Gregory and Abi Lewis. Again, if you would please identify yourself as you speak.

Mr John Gregory: Good morning Mr Chairman and members. My name is John Gregory. I'm general counsel of the policy branch of the Ministry of the Attorney General. I have with me Abi Lewis, who is counsel in our branch as well.

We did submit, I guess it was late yesterday, a written document to the committee. The ministry has some serious reservations about the legislation and about creating a statutory designation for a new body of professional accountants, particularly at this time, frankly, because we had Bill 213 passed by the Legislature to deal

with access to public accounting. That bill, as you will appreciate, is not yet in force. There is a good deal of deliberation, public discussion and private discussion going on about that. To come with a statute that creates another body, which is in fact doing something else for another purpose, is fairly confusing.

The Society of Professional Accountants, which is applying for the legislation, has, as they say, already used this designation in practice. People are out there using RPA after their names, and of course they're entirely entitled to do that. As Mr Nichols pointed out, there is a way of legally preventing other people from doing that. If I went out and hung up my shingle as an accountant, the law permits me to do that—not as a public accountant, to do audits, but if I said, "I'll do your financial statements, I'll do your tax returns," I can do that today if I chose to. However, if I put RPA after my name, the Society of Professional Accountants could come along and sue me for passing myself off as one of them. They have a legal right. It's not an offence under a statute to do it. It is a civil kind of action, but there is a way of enforcing it.

Likewise, the federal Trade-marks Act allows for something called a certification mark. The usual example is a housekeeping seal of approval. You can get a certification mark to protect a designation that isn't goods for sale, but a kind of designation to show product quality or service quality would be available to them as well.

Creating a statutory designation does suggest that the government—the Legislature, at least—is standing behind its standard to some extent, which I think at this point, particularly, is misleading. Perhaps in a few years' time when things settle down with the public accounting debate, they can come back and say, "OK, there won't be confusion; the dust has settled. Let's start another debate."

We're not saying that the ministry would oppose this forever, but I think at this time it's problematic. I believe I heard Mr Nichols say as well that his bill would, in fact, give the members of his association some protection against joint and several liability. I don't see that in the act. I looked at the act after he mentioned that. I don't see it in the act. If it were true, we'd have really strong reservations about that, but I'll just let that pass because I don't think it's in the bill. But I think it's basically confusing and problematic in this context.

I'm happy to answer questions.

The Chair: Any questions?

Mr Kells: I appreciate what you've just covered. There might be some comments in what I'm going to ask but I want to know if you concur with the feeling that many of the groups have here that there will be confusion in the marketplace if this is allowed to proceed. I must say, as I listen to the evidence, it is very confusing. I think we have a problem here, where we're taking three words, "registered professional accountant," which are very generic in nature and, in a marketing sense, applying it to one group. As has been testified here, they have the right to use that terminology or that description anyway, but it's not a policy of this government at this time to get

into the business, if you will, of applying generic terms to one section of a profession. I just wondered if you had any comment on that observation of mine.

1050

Mr Gregory: I think there's a good deal of force to that. Certainly, thinking of it as a parallel to a kind of statutory trademark under provincial statute, one of the requirements for a trademark is that it be distinctive in some way; it's not just a generic. I can't trademark the word "paper" to sell my paper. I have to say Gregory's Papers or Toronto Papers or something that makes it more distinctive. The more generic it is, the more difficult it is to give a monopoly of it to anybody. Certainly, that's the policy of the Trade-marks Act. I think there's a good case for that being a policy of an Ontario statute.

They have said, "Yes, we've been using this for several years. It has become distinctive." We've heard other accounting bodies say, "No, it's not." Certainly "professional accountant" is fairly generic. So it's a question of time and it's a question of marketplace recognition. That's certainly a risk.

Mr Kells: Thank you for the answer. My observation on that is if it's so generally known, it doesn't necessarily need a government bill to enshrine it in any way.

But let's continue on from that. You did mention, and it's quite obvious that we've been looking at the profession, even though the province doesn't regulate this profession, there are bills brought by the government or before the government in regard to it. We're looking at it right now, asking the profession to take a look at how they operate, and that's an ongoing initiative. So I think there's also a question of prematurity here and I was just wondering if you would comment on that. As you said, we haven't written it off forever, but it does seem premature at this time in relation to what's going on out there.

Mr Gregory: Premature or unfortunate coincidence, but certainly at the time when a lot of attention is being paid to who does accounting and how and for the public accounting debate, we in the ministry would suggest that it is probably more important to the public interest to get that one resolved without confusing people by thinking, "The government has just recognized them. How is this connected?" It's a little hard to explain. As I say, the ministry isn't dug in for ever and ever on this one, but I think at present it would be unfortunate.

Mr Kells: Finally, I agree with the early observation made by the honourable member Mr Hoy that we wonder why this couldn't better be done, if it must be done, as a public bill and as part of government policy, if we decide to get into the regulations of the accounting industry in a major way. I guess that goes to prematurity too, but it also goes to the regulation. If we were to allow this designation to this private bill, then it almost gives one section of the accounting industry a form of regulation, which we can't deal with at this time.

Mr Gregory: Frankly, I'm less concerned about that because the other three accounting bodies that have been mentioned all have private bills. The CAs, the CGAs and

the CMAs all take their authority from private legislation rather than public legislation. So the fact that it's private legislation doesn't invalidate it as such. Certainly something that one has to keep in mind about private legislation is that its impact is not only on the people specifically addressed; it's on the rest of the world too. It gives me the right to use a designation but it prevents you from using a designation.

Interjection.

Mr Gregory: Mr Lewis has suggested the Chartered Accountants Act is public legislation; it's not consolidated in the statutes. Certainly CGA and CMA legislation—

Mr Kells: Perhaps that's why we're having a review, or trying to have a review.

Mr Gregory: Well, the Public Accountancy Act, on the other hand, which says who can do audits and who can't, is very definitely public legislation. Bill 213, which amended it, is public legislation. The debate now is on public legislation, and that's what we'd like to keep in the front of our minds at present.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Mr Kells touched on most of what I wanted to speak to, and Mr Gregory's comments, particularly the last one, relating to Bill 213, strike me as being wise counsel. We've just been through a process that at the best of times could be described as hectic and somewhat controversial. It would seem to me it's not generally in the public's interest to confuse, or to propose legislation without adequate opportunity for consultation and hearings and debate.

My own sense is that, particularly on the heels of Bill 213, it would appear to me at cursory glance, as one who has experienced a transmission dropping on the highway coming in this morning—my apologies for being late; I had a chance to sit and reread some of my notes while I was waiting in the car for the tow truck to come—that it's not generally in the public's best interest to add some choppiness to waters we're trying to calm.

I appreciate the association coming this morning. It's not as if a failure to support this bill at this point in time is taking anything away from anybody, as has already been noted. The association exists. It's just a matter of not choosing to extend additional rights and privileges. I appreciate the comments that were made. As for myself, I would prefer to see the waters calm, and if this is to reappear, that it reappear, with all respect to the presenter, as a public bill.

Mr Gill: Mr Chair, may I add, with your permission?

The Chair: Sure, but not questions of the—

Mr Gill: No. In response to Mr McMeekin's comments, this particular concern, Mr McMeekin, goes back many years. Formerly, as much as I know, this group's discussions with the Attorney General have been since December 1999, as soon as the new government was formed. One might say, "We didn't know enough about this thing." But I know this has been going on. They have been meeting with members for at least four years that I

know of. By no means is it a brand new policy coming forward today.

The Chair: Are there other members with other comments? My sense is that we're ready for the vote. I think we've heard enough.

Mr Choudhry: If we could just add one thing.

The Chair: I will permit another intervention, but that will be the last intervention we'll hear from the group. Go ahead, please.

Ms Louise Pelly: I just want to make one comment, Mr Chairman. Apropos of the fact that it's a private bill, this was recommended by James Flaherty when he was Attorney General in March 2000. We have a letter—it's in your binder—to that effect, and that is why we came forward with a private bill.

The other point I want to stress is that there is a federally incorporated branch or chapter of the society that uses the RPA designation. It is already, and has always been, recognized by the Civil Service Commission of Ontario. The main reason for wanting to continue the Ontario chapter by way of a private bill is that the federal government won't recognize it, even though the Ontario government does, because it will only recognize it if it's incorporated under provincial legislation. So you have a rather strange situation of the Civil Service Commission of Ontario recognizing the RPA designation, but the equivalent federal body doesn't because it doesn't want to tread, presumably, on provincial toes, and requires it to be provincially incorporated.

The Chair: Thank you, Ms Pelly. Any questions by the members? Are we ready for the vote?

Shall sections 1 to 14 carry? All in favour? All opposed? These sections do not carry.

Shall I report that the bill—no, the title doesn't carry, obviously. Shall the bill carry? It doesn't carry because people voted against it, I'm assuming. Let me go through it.

Shall the title carry? Not carried.

Shall the bill carry? The bill does not carry.

Shall I report that the bill not be reported to the House? One member says no; the rest say yes.

Thank you very much.

I thank all the people who participated in this discussion and debate. Obviously, you've heard the verdict from the members.

1100

TYNDALE UNIVERSITY COLLEGE & SEMINARY ACT, 2003

Consideration of Bill Pr21, An Act respecting Tyndale College & Seminary (formerly Ontario Bible College and Ontario Theological Seminary).

The Chair: We'll move on to Bill Pr21, An Act respecting Tyndale College & Seminary. The sponsor is Mr McDonald.

Mr AL McDonald (Nipissing): Good morning, Chair, and members of the committee. It's my pleasure to be here on behalf of Mr Dunlop, who is unable to attend.

I'd like to introduce to the committee for its consideration Bill Pr21, An Act respecting Tyndale College & Seminary (formerly Ontario Bible College and Ontario Theological Seminary). I understand that the applicants are here. They may be able to make presentations and answer any questions.

The Chair: Would the applicants come forward, please: Dr Stiller, Dr Carter, Ms Whitt and Michael Kray?

Dr Brian Stiller: Mr Chair and committee members, my name is Brian Stiller. I serve as president of Tyndale College & Seminary. With me are Michael Kray, our solicitor; Dr Craig Carter, vice-president and academic dean of the college; and Ruth Whitt, the executive assistant who actually coordinated our application.

Mr Chair, I have put before you a briefing sheet which gives you the outline. Tyndale was formed in 1894, the oldest school of its kind in Canada. In the 1960s it combined with a college out of London, Ontario. It developed a graduate school in the 1970s, which is now the largest in Canada and the 14th-largest in North America. We have some 10,000 alumni.

This bill is requesting amendment to our bill for two primary reasons.

Under rationale for amendment, first is housekeeping. We simply have governance issues that we wanted cleaned. We changed our name some years ago to Tyndale. Second, we have completed the provincial education quality assessment board review with application to include within our degrees that we currently offer a BA and a BA honours within the three areas of business, social sciences and humanities. We are supported by the ministry.

We're pleased to answer any questions you would have.

The Chair: Thank you. Questions of the applicants? If there are no questions, obviously they're very happy with you.

We'll see whether there are other interested parties who would want to make a submission. Is there anyone present in the room wanting to make another submission? OK, we thank you for that. Any comments?

Mr Kells: My comments will be very brief. As the gentleman says, the ministry supports this application. I'd just like to reiterate our wholehearted support for what you're asking for.

Mr McMeekin: I want to echo that. We on this side also support it. There are no public monies involved here.

It's an extension that has been blessed by the college that reviews it, and that's important. In my own riding, with Redeemer College University, we've done similar things. I know this institution at a personal level and I'm pleased to see that things are well. This is the day the Lord has made, so rejoice and be glad in it.

The Chair: There are two amendments. We'll move them as we get to that section, I guess.

Are we ready for the vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

There's a motion to amend section 3.

Mr McDonald: I move that clause 3(a) of the bill be struck out and the following substituted:

"(a) to provide university level instruction in various academic disciplines in humanities, religious studies, social sciences and business studies, as well as in certain professional studies."

The Chair: Any discussion on that amendment? All in favour? Any opposed? That carries.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall sections 9 to 13 carry? Carried.

There is a schedule change. There's an amendment there.

Mr McDonald: I move that paragraph 1 of the schedule to the bill be struck out and the following substituted:

"1. Bachelor of Arts, Bachelor of Arts (Honours) in humanities, social sciences or business studies."

The Chair: Any discussion on that amendment? All in favour of the amendment? Carried.

Shall the schedule, as amended, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

I believe that's it. Thank you, applicants.

Thank you, members. We have no other business. We are adjourned.

The committee adjourned at 1107.

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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Mercredi 18 juin 2003

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regulations and private bills**

**Comité permanent des
règlements et des projets
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLSCOMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ

Wednesday 18 June 2003

Mercredi 18 juin 2003

The committee met at 1005 in committee room 1.

COUNTY OF HALIBURTON ACT, 2003

Consideration of Bill Pr18, An Act respecting the County of Haliburton.

The Chair (Mr Rosario Marchese): I call the meeting to order. We are going to be dealing with Bill Pr18, An Act respecting the County of Haliburton. The sponsor is Mr Dunlop. Welcome, Mr Dunlop. Do you have any comments to begin?

Mr Garfield Dunlop (Simcoe North): Thank you very much, Mr Chair. I appreciate the opportunity to be here. I am actually substituting for Chris Hodgson, who is the MPP for this region.

With me today are Gary King, the chief administrative officer, Wayne Fairbrother, the solicitor, and Ross Rigney, who is the warden of the county of Haliburton. I'd like to at this point have the solicitor actually make some comments on the reasons for the bill.

The Chair: Very good. Please identify yourself and others for the purposes of Hansard.

Mr Wayne Fairbrother: Thank you, Mr Chairman. My name is Wayne Fairbrother. I'm the solicitor for the county. Good morning to the Chair and the members of the committee.

I understand that the compendium has been filed and that the members of the committee have it in front of them.

The Chair: Yes.

Mr Fairbrother: I don't intend to go through it in any detail, but either the warden, the CAO or myself will attempt to answer any questions.

Very briefly, the draft bill that has also been presented by Ms Hopkins before you today has a couple of last-minute modifications. I'd just like the committee to know that those are acceptable to the county, and it's my understanding that they've been reviewed not only with legislative counsel but with representatives of the Ministry of Health and Long-Term Care. So everything seems to be in order.

In short, the purpose of this draft bill is to complete a process that was commenced roughly two years ago wherein the county, with the support of the province, initiated a move toward an integrated health care system to be governed by the community. To that end, a non-

profit corporation by the name of Haliburton Highlands Health Services Corp, or HHHS, was approved by the minister as a charitable institution. There was an agreement entered into between the county and HHHS to transfer the assets, management and governance obligations to HHHS. The transfer of the assets and management obligations was done pursuant to an agreement that was signed off on by the ministry. It was anticipated at that time, about 2000, that there were going to be changes to the applicable legislation. Those changes never materialized, so now we have a situation where the county has effectively transferred all assets and management to HHHS, but is still left with the governance obligations.

This private bill is essentially to complete that process that was commenced two years ago. In short, that's why we're here today.

The Chair: OK. Thank you. Are there any other comments from the other applicants?

Mr Kells, do you have any other comments?

Mr Morley Kells (Etobicoke-Lakeshore): The Ministry of Municipal Affairs defers to the Ministry of Health and supports this.

The Chair: Any questions from other members? Monsieur Bisson?

Mr Gilles Bisson (Timmings-James Bay): Just so I understand, basically you as a municipality, or all of the municipalities in the area, used to manage and run this particular—who's running it now? You're making management decisions, but—

Mr Ross Rigney: No, it's being run by the HHHS. They've been running it since 2000.

Mr Bisson: And who are they?

Mr Rigney: That's this organization that was referred to.

Mr Bisson: And what are they? A for-profit or a not-for-profit organization?

Mr Rigney: They are not-for-profit.

Mr Bisson: What was the rationale for doing the transfer?

Mr Fairbrother: The rationale for doing the transfer in 2000? The gentleman could perhaps speak to it better than I have, but essentially the county was, in accordance with some initiatives that the Ministry of Health was pursuing at that time, trying to establish a community-based, integrated, long-term health care program. As part

of this, funding was provided to explore a vehicle of having it run by these not-for-profit corporations, which have to be approved by the minister and registered under the Charitable Institutions Act, which HHHS is. It was largely a pilot project, and it was anticipated that legislation was going to come with that.

Mr Bisson: And it's strictly a rest home?

Mr Rigney: No.

Mr Bisson: Does it provide any other services?

Mr Rigney: All other services—

Mr Bisson: So it operates like a CCAC, then?

Mr Rigney: In a way, yes. You're right. Acute care, long-term care, and many other community—like the mental health is under there. A lot of other social and—

Mr Bisson: This is interesting. Can you describe a little bit of what you're doing? It sounds like an interesting project. So what you had originally was a rest home that was being managed by the municipality.

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Mr Rigney: Managed and owned.

Mr Bisson: It was a home for the aged.

Mr Rigney: Yes, and it was owned by the county.

Mr Bisson: And it was a municipal home for the aged.

Mr Rigney: Yes.

Mr Bisson: OK. So what you did was, you basically set up a new corporation, and this new corporation has an integrated approach to long-term-care services, if I understand what you're doing here.

Mr Rigney: That's correct.

Mr Bisson: So they now not only manage the rest home, or the home for the aged, but they also manage other services in the community?

Mr Rigney: Two acute-care—two hospitals—

Mr Bisson: Oh, so it's a mix like we have up in our area.

Mr Rigney: Yes.

Mr Bisson: So you have the two hospitals, the home for the aged. What else is in there?

Mr Rigney: The Canadian Mental Health.

Mr Bisson: Now, that's interesting. So they work in the building as a separate entity?

Mr Rigney: They work as a separate entity but are part of and report to the health services board. This health services board is an elected body as well.

Mr Bisson: Who else other than mental health services?

Mr Rigney: There's Kinark, which is for troubled young people. There's a series of social programs of that nature that has been put in one house so that there's a common direction of where we're trying to go. It's working very well.

Mr Bisson: So who does your community long-term care like Meals on Wheels, nursing services?

Mr Rigney: That's also part of this.

Mr Bisson: So it's a one-window approach.

Mr Rigney: It's a one-window approach. That's a good way of putting it. It's a one-window approach.

Mr Bisson: We have similar—I was involved where we brought the municipal home for the aged in with the hospitals. We had Matheson, Iroquois Falls and Cochrane, which were hospitals, and then we had two retirement homes. What we did is, we brought the homes together under one management structure. But it's the first time I've seen other community services being brought in underneath the same—

Mr Rigney: It's interesting to note as well that we have an Extendicare up there which co-operates with this whole group, and it runs separately.

Mr Bisson: You have placement coordination of some type, and that would be run under this particular organization as well.

Mr Rigney: That's correct. Yes.

Mr Bisson: Congratulations.

Mr Rigney: It has been a hard thing to sell to people, because you have to really understand what we're trying to achieve.

Mr Bisson: So now what happens is, if I'm somebody in the communities covered by your county—and it's under just the one county, I take it?

Mr Rigney: Yes.

Mr Bisson: So if I'm in the Haliburton area, basically I go to one place and I deal with either long-term care, mental—addictions as well? All of that?

Mr Rigney: Yes.

Mr Bisson: Wow.

Mr Rigney: Yes.

Mr Bisson: Can I get a tour?

Mr Rigney: Yes. Come up.

Mr Bisson: Give me your card on the way out. I wouldn't mind sitting down. That's part of the problem we have. There's been all kinds of good work done by all stripes of government, under the New Democrats and the Tories, in trying to bring together some of these services so they're not appearing as fragmented as they normally do.

Mr Joseph Spina (Brampton Centre): The Liberals tried to fragment them.

Mr Bisson: Well, they were the fragmenters. It's unfortunate. What they got caught up with was that the economy at the time didn't necessitate some of this stuff happening. It wasn't that they didn't want to do it, it was just that the concept wasn't there. It really started with us and continued with you.

I wouldn't mind your card, because it's a very interesting concept. At the end of the day, I know we all have, as MPPs, constituents who call our offices because they have no idea how to get hold of services. "I've got a child" or "I've got an adult who falls somewhere between the cracks," and you have this fight between various health providers, what it is they're going to provide for services. So thank you. I will take you up on the offer, and I will visit.

Mr Rigney: We would be pleased.

Mr Bisson: Can I bring a friend of mine, Earl Manners, with me?

Mr Rigney: He's in the riding right now.

Mr Bisson: I know. I'll bring Earl with me.

The Chair: Other members with other questions? That means we're ready for the vote, it appears. Very good.

Mr Bisson: I have just one last question. All of these organizations are now funded by way of regular funding mechanisms, but there's an overall savings as far as administration, I would take it.

Mr Rigney: Yes, there is.

Mr Bisson: So what have you done? Have you re-invested that money in services?

Mr Rigney: Yes.

Mr Bisson: Excellent. Thank you.

Mr Rigney: That was the selling point.

Mr Bisson: Yes. Congratulations.

The Chair: OK. Thank you very much. Thank you to the applicants and sponsor. We're ready for the vote now.

We do have an amendment to section 1. Who was moving that? Monsieur Dunlop?

Mr Dunlop: I move that section 1 of the bill be struck out and the following substituted:

"Exemption

"1.(1) The Homes for the Aged and Rest Homes Act does not apply to the county of Haliburton during any period in which both of the following conditions are satisfied:

"1. Haliburton Highlands Health Services Corporation maintains and operates one or more approved charitable homes for the aged, as defined in section 1 of the Charitable Institutions Act, in the county of Haliburton.

"2. Haliburton Highlands Health Services Corporation is an approved corporation as defined in section 1 of the Charitable Institutions Act.

"Definition

"(2) In this section,

"'Haliburton Highlands Health Services Corporation' means the corporation incorporated under the name Haliburton Highlands Health Services Corporation by letters patent dated February 19, 1996 issued under the Corporations Act."

The Chair: All in favour of the amendment? Any opposed? That carries.

Shall section 1, as amended, carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

There is an amendment to the preamble.

Mr Dunlop: Yes, there is, Mr Chair. I move that the first paragraph of the preamble to the bill be struck out and the following substituted:

"The council of the county of Haliburton has applied for special legislation stating that the Homes for the Aged and Rest Homes Act does not apply to the county in specified circumstances."

The Chair: Any discussion? All in favour of the amendment? Any opposed? Carried.

Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Yes.

Thank you, applicants, and thank you, sponsor, for coming.

Mr Dunlop: Thank you very much, Mr Chair.

The Chair: There is no other business. This meeting is adjourned.

The committee adjourned at 1016.

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